

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Astro Auto Wrecking, LLC

Federal Way, Washington

Respondent.

DOCKET NO. CWA-10-2021-0097

EXHIBITS TO MEMORANDUM IN SUPPORT OF MOTION FOR DEFAULT

- Exhibit 1 2015 Industrial Stormwater General Permit, Washington Department of Ecology
- Exhibit 2 Email from Raymond Andrews to Leo McMilian, re: Notice of Intent to File Administrative Complaint for Violations of the Clean Water Act (Sep. 14, 2020).
- Attachment: Small Business Resource Information Sheet
 - Attachment: List of Violations
- Exhibit 3 Declaration of Alexander Fidis
- Exhibit 4: Water Compliance Inspection Report, U.S. EPA, Region 10 (July 24, 2019)
- Exhibit 5: Email from Alexander Fidis to Leo McMilian, re: Status of Information for EPA (Nov. 23, 2020)
- Exhibit 6: Email correspondence between Alexander Fidis and Leo McMilian, re: Status of Information for EPA (Nov. 23, 2020, Dec. 9, 2020, Dec. 28, 2020 and Jan. 7, 2021)
- Attachment: List of Violations
- Exhibit 7: Email from Alexander Fidis to Leo McMilian, re: Notice of intent to file administrative complaint (Feb. 16, 2021)
- Attachment: List of Violations
- Exhibit 8: Email from Leo McMilian and Christina Fleming to Alexander Fidis, re: Violations response request (Feb. 25, 2021)
- Exhibit 9: Email from Alexander Fidis to Regional Hearing Clerk, Region 10, re: In the Matter of: Astro Auto Wrecking, LLC, U.S. EPA Docket No. CWA-10-2021-0097 (Apr. 28, 2021)
- Attachment: Signed AAW Complaint

- Attachment: STANDING ORDER Region 10 Electronic Service
- Attachment: STANDING ORDER Region 10 Part 22 EFS
- Attachment: Complaint Certificate of Service 4_28_21_signed

Exhibit 10: United States Postal Service, Certified Mail Green Card Date of Delivery (Apr. 30, 2021)

Exhibit 11: Email from Raymond Andrews to Vincent McGowen, re: EPA Formal Action Notification Letter (May 5, 2021).

- Attachment: AAW State Notice Letter Complaint

Exhibit 12: Email correspondence between Alexander Fidis and Regional Hearing Clerk, Region 10 (Nov. 30, 2021 and Dec. 1, 2021)

Exhibit 13: Email from Alexander Fidis to Leo McMilian, re: In the Matter of Astro Auto Wrecking, LLC, Docket No. CWA-10-2021-0097 (Jul. 20, 2021)

- Attachment: Astro Auto Wrecking Complaint
- Attachment: Astro Auto Wrecking Complaint Certificate of Service
- Attachment: 40 CFR Part 22 Consolidated Rules of Practice
- Attachment: Astro Auto Wrecking Green Card
- Attachment: STANDING ORDER Region 10 Part 22 EFS

Exhibit 14: Finds of Fact and Conclusions of Law, *Waste Action Project v. Astro Auto Wrecking, LLC*, Case No. C15-0796-JCC, Dkt. #91 (Apr. 4, 2017)

Exhibit 15: Letters from Department of Ecology to Leo McMilian, re: Discharge Monitoring Reports and Notice of Penalty Docket #15855 (Apr. 6, 2016, Apr. 6, 2017, Jun. 21, 2018, Sep. 20, 2018 and Jun. 20, 2018)

Exhibit 16: Order on Motion for Summary Judgment, *Waste Action Project v. Astro Auto Wrecking, LLC*, Case No. C15-0796-JCC, Dkt. #67 (Dec. 6, 2016)

Exhibit 17: Order on Motion for Attorney Fees, *Waste Action Project v. Astro Auto Wrecking, LLC*, Case No. C15-0796-JCC, Dkt. #97 (Jun. 16, 2017)

Exhibit 18: Letter from Department of Ecology to Leo McMilian, re: Industrial Stormwater General Permit (ISGP Coverage WAR11869) (Mar. 13, 2015)

Exhibit 19: Order to Show Cause, *Waste Action Project v. Astro Auto Wrecking, LLC*, Case No. C15-0796-JCC, Dkt. #106 (Aug. 13, 2018)

Exhibit 20: Declaration of Compliance of Leo McMilian, *Waste Action Project v. Astro Auto Wrecking, LLC*, Case No. C15-0796-JCC, Dkt. #107 (Oct. 1, 2018)

EXHIBIT 1

Issuance Date: December 3, 2014
Effective Date: January 2, 2015
Expiration Date: December 31, 2019

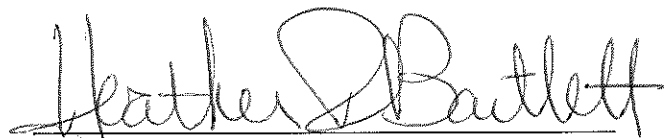
INDUSTRIAL STORMWATER GENERAL PERMIT

A National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge
General Permit for Stormwater Discharges Associated with
Industrial Activities

State of Washington
Department of Ecology
Olympia, Washington 98504-7600

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.

Until this permit expires, is modified or revoked, Permittees that have properly obtained
coverage under this general permit are authorized to discharge in accordance with the special and
general conditions which follow.



Heather R. Bartlett
Water Quality Program Manager
Washington State Department of Ecology

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TABLE OF CONTENTS

SUMMARY OF PERMIT REPORTS & SUBMITTALS	1
SUMMARY OF REQUIRED ONSITE DOCUMENTATION	1
SPECIAL CONDITIONS	3
S1. PERMIT COVERAGE	3
A. Facilities Required to Seek Coverage under This General Permit	3
B. Significant Contributors of Pollutants	5
C. Facilities Not Required to Obtain Coverage	5
D. Facilities Excluded from Coverage	6
E. Discharges to Ground	7
F. Conditional "No Exposure" Exemption	8
S2. APPLICATION FOR COVERAGE	8
A. Obtaining Permit Coverage	8
B. Modification of Permit Coverage	8
C. Permit Coverage Timeline	9
D. Transfer of Permit Coverage	10
S3. STORMWATER POLLUTION PREVENTION PLAN (SWPPP)	10
A. General Requirements	10
B. Specific SWPPP Requirements	11
S4. GENERAL SAMPLING REQUIREMENTS	19
A. General Requirements	19
B. Sampling Requirements	19
C. Analytical Procedures for Sampling Requirements	21
D. Laboratory Accreditation	22
S5. BENCHMARKS, EFFLUENT LIMITATIONS, AND SPECIFIC SAMPLING REQUIREMENTS	22
A. Benchmarks and Sampling Requirements	22
B. Additional Sampling Requirements for Specific Industrial Groups	23
C. Landfills and Airports Subject to Effluent Limitation Guidelines	25
D. Conditionally Authorized Non-Stormwater Discharges	27
E. Prohibited Discharges	28
F. General Prohibitions	28
S6. DISCHARGES TO IMPAIRED WATERS	28
A. General Requirements for Discharges to Impaired Waters	28
B. Eligibility for Coverage of New Discharges to Impaired Waters	29
C. Additional Sampling Requirements and Effluent Limits for Discharges to Certain Impaired Waters and Puget Sound Sediment Cleanup Sites	29
D. Requirements for Discharges to Waters with Applicable TMDLs	34

S7.	INSPECTIONS	35
	A. Inspection Frequency and Personnel	35
	B. Inspection Components.....	35
	C. Inspection Results	35
	D. Reports of Non-Compliance	36
S8.	CORRECTIVE ACTIONS	36
	A. Implementation of Source Control and Treatment BMPs from Previous Permit.....	36
	B. Level One Corrective Actions – Operational Source Control BMPs	36
	C. Level Two Corrective Actions – Structural Source Control BMPs.....	37
	D. Level Three Corrective Actions – Treatment BMPs	37
S9.	REPORTING AND RECORDKEEPING	39
	A. Discharge Monitoring Reports.....	39
	B. Annual Reports	40
	C. Records Retention.....	41
	D. Additional Sampling by the Permittee	41
	E. Reporting Permit Violations	42
	F. Public Access to SWPPP	43
S10.	COMPLIANCE WITH STANDARDS	43
S11.	PERMIT FEES.....	44
S12.	SOLID AND LIQUID WASTE MANAGEMENT	44
S13.	NOTICE OF TERMINATION (NOT)	44
	A. Conditions for a NOT	44
	B. Procedure for Obtaining Termination.....	44
	GENERAL CONDITIONS	45
G1.	DISCHARGE VIOLATIONS	45
G2.	SIGNATORY REQUIREMENTS.....	45
G3.	RIGHT OF INSPECTION AND ENTRY	46
G4.	GENERAL PERMIT MODIFICATION AND REVOCATION	46
G5.	REVOCATION OF COVERAGE UNDER THE PERMIT	46
G6.	REPORTING A CAUSE FOR MODIFICATION	47
G7.	COMPLIANCE WITH OTHER LAWS AND STATUTES.....	47
G8.	DUTY TO REAPPLY	47

G9.	REMOVED SUBSTANCES	47
G10.	DUTY TO PROVIDE INFORMATION.....	47
G11.	OTHER REQUIREMENTS OF 40 CFR.....	48
G12.	ADDITIONAL SAMPLING	48
G13.	PENALTIES FOR VIOLATING PERMIT CONDITIONS	48
G14.	UPSET	48
G15.	PROPERTY RIGHTS.....	49
G16.	DUTY TO COMPLY	49
G17.	TOXIC POLLUTANTS.....	49
G18.	PENALTIES FOR TAMPERING	49
G19.	REPORTING PLANNED CHANGES	49
G20.	REPORTING OTHER INFORMATION.....	50
G21.	REPORTING ANTICIPATED NON-COMPLIANCE.....	50
G22.	REQUESTS TO BE EXCLUDED FROM COVERAGE UNDER THE PERMIT	50
G23.	APPEALS	50
G24.	SEVERABILITY	51
G25.	BYPASS PROHIBITED.....	51
	APPENDIX 1 - ACRONYMS.....	53
	APPENDIX 2 - DEFINITIONS.....	54
	APPENDIX 3 - SWPPP CERTIFICATION FORM	63
	APPENDIX 4 - EXISTING DISCHARGERS TO IMPAIRED WATERS	64
	APPENDIX 5 - DISCHARGERS SUBJECT TO TMDL REQUIREMENTS	64

SUMMARY OF PERMIT REPORTS & SUBMITTALS

Permit Section	Submittal	Frequency	Due Date(s)
S1.F	Conditional “No Exposure” Certification Form	As necessary	As necessary, with renewals every 5 years
S2.B	<i>Application</i> for Permit Coverage	As necessary	As necessary
S2.B.	Request Modification of Permit Coverage	As necessary	As necessary
S2.D	Request Transfer of Coverage	As necessary	As necessary
S8.D	Level 3 Engineering Report	As necessary	May 15 th , prior to Level 3 deadline ¹
S8.D	Level 3 O&M Manual	As necessary	30 days after Level 3 installation
S9.A	Discharge Monitoring Reports (DMRs)	1/quarter	February 15 th ; May 15 th ; August 15 th ; November 15 th
S9.B	Annual Report	1/year	May 15 th
S9.C.	SWPPP, if requested by <i>Ecology</i>	Per <i>Ecology</i> request	Within 14 days of request
S9.E	Noncompliance Notification	As necessary	Within 30 days of noncompliance event
G8	Duty to Reapply	1/permit cycle	July 3, 2019

SUMMARY OF REQUIRED ONSITE DOCUMENTATION²

Permit Condition(s)	Document Title
S3.A.4.a	<i>Stormwater Pollution Prevention Plan</i> (SWPPP) ³
S9.B	Copies of Annual Reports
S9.C.1.a	Copy of Permit
S9.C.1.b	Copy of Permit Coverage Letter
S9.C.1.c	Original Sampling Records (Field Notes and Laboratory Reports)
S7.C & S9.C.1.d	Site Inspection Reports
S9.C.1.j	Copies of Discharge Monitoring Reports (DMRs)

¹ Unless an alternate due date is specified in an order.

² A complete list is contained in Condition S9.C. The Permittee shall make all plans, documents and records required

by this permit immediately available to Ecology or the local jurisdiction upon request.

³ With signed and completed SWPPP Certification Form(s) – see Appendix 3.

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SPECIAL CONDITIONS

S1. PERMIT COVERAGE

A. Facilities Required to Seek Coverage under This General Permit

This statewide permit applies to *facilities* conducting *industrial activities* that *discharge stormwater* to a surface waterbody or to a *storm sewer* system that drains to a surface waterbody. Beginning on the effective date of this permit and lasting through its expiration date, the Permittee is authorized to *discharge stormwater* and conditionally approved non-stormwater *discharges* to *waters of the state*. All *discharges* and activities authorized by this permit shall be consistent with the terms and conditions of this permit.

The permit requires coverage for private entities, state, and *local government* facilities, and includes *existing facilities* and *new facilities*. Facilities conducting industrial activities listed in [Table 1](#) or referenced in S1.A.3 shall apply for coverage under this permit or apply for a Conditional No Exposure exemption, if eligible (Condition S1.F). The *Department of Ecology (Ecology)* may also require permit coverage for any *facility* on a case-by-case basis in order to protect *waters of the state* (Condition S1.B).

1. Facilities engaged in any industrial activities in [Table 1](#) shall apply for coverage if *stormwater* from the *facility discharges* to a surface waterbody, or to a *storm sewer* system that *discharges* to a surface waterbody. The *Standard Industrial Classification (SIC)* groups generally, but not always, associated with these activities are listed in [Table 1](#).

Table 1: Activities Requiring Permit Coverage and the Associated SIC Groups

Industrial Activities	SIC Groups
Metal Mining	10xx
Coal Mining	12xx
Oil and Gas Extraction	13xx
Mining and Quarrying of Nonmetallic Minerals, except Fuels (except facilities in SIC Codes 1411, 1422, 1423, 1429, 1442, 1446, 1445, 1459, and 1499; these facilities are covered under the Sand and Gravel General Permit)	14xx
Food and Kindred Products	20xx
Tobacco Products	21xx
Textile Mill Products	22xx
Apparel and Other Finished Products Made from Fabrics and Similar Material	23xx
Lumber and Wood Products	24xx
Furniture and Fixtures	25xx
Paper and Allied Products	26xx
Printing, Publishing and Allied Industries	27xx
Chemicals and Allied Products (including Compost Facilities)	28xx
Petroleum Refining and Related Industries (Except facilities in SIC 2951; these facilities are covered under the Sand and Gravel General Permit)	29xx
Rubber and Miscellaneous Products	30xx
Leather and Leather Products	31xx

Industrial Activities	SIC Groups
Stone, Clay, Glass, and Concrete Products (Except facilities in SIC 3271-3273; these facilities are covered under the Sand and Gravel General Permit)	32xx
Primary Metal Industries	33xx
Fabricated Metal Products	34xx
Industrial and Commercial Machinery and Computer Equipment	35xx
Electronic and Other Electrical Equipment and Components	36xx
Transportation Equipment	37xx
Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks	38xx
Miscellaneous Manufacturing Industries	39xx
Farm Product Storage	4221
Refrigerated Storage	4222
General Storage	4225
Recycling facilities involved in the recycling of materials, including but not limited to, metal scrap yards, battery reclaimers, salvage yards, auto recyclers, and automobile junkyards.	5015 and 5093
Steam Electric Power Generation	N/A
Refuse Systems, including, but not limited to, <i>landfills</i> , transfer stations, open dumps, and <i>land application sites</i> , except as described in S1.C.6 or C.7.	4953
Hazardous waste treatment, storage, and disposal (TSD) facilities, and recycling facilities regulated under Chapter 173-303 WAC.	N/A
Treatment works treating domestic sewage, or any other sewage sludge, or wastewater treatment device or system, used in the storage, recycling, and reclamation of municipal or domestic sewage (including land dedicated to the disposal of sewage sludge that are located within the confines of the <i>facility</i>) with the design flow capacity of 1 million gallons per day (MGD) or more, or required to have a pretreatment program under <i>40 CFR</i> §403.	4952
Transportation facilities which have <i>vehicle maintenance</i> activity, equipment cleaning operations, or airport <i>deicing</i> operations: <ul style="list-style-type: none"> • Railroad Transportation • Local and Suburban Transit and Interurban Highway Passenger Transportation • Motor Freight Transportation (except SIC 4221–25) • United States Postal Service • Water Transportation • Air Transportation • Petroleum Bulk Stations and Terminals 	40xx 41xx 42xx 43xx 44xx 45xx 5171

S1.A.2

2. Any *facility* that has an existing *National Pollutant Discharge Elimination System (NPDES)* permit which does not address all *stormwater discharges associated with industrial activity* [40 CFR Subpart 122.26(b)(14)] shall obtain permit coverage.
3. Any *inactive facility* which is listed under 40 CFR Subpart 122.26(b)(14) where *significant materials* remain onsite and are exposed to *stormwater* shall obtain permit coverage.

B. Significant Contributors of Pollutants

Ecology may require a *facility* to obtain coverage under this permit if *Ecology* determines the *facility*:

1. Is a *significant contributor of pollutants* to *waters of the state*, including *ground water*;
2. May reasonably be expected to cause a violation of any *water quality standard*; or
3. Conducts *industrial activity*, or has a SIC code, with *stormwater* characteristics similar to any *industrial activity* or SIC code listed in [Table 1](#) in S1.A.1.

C. Facilities Not Required to Obtain Coverage

Ecology does not require the types of facilities listed below to obtain coverage under this permit, unless determined to be a *significant contributor of pollutants*.

1. Industrial facilities that submit an *application* and qualify for a Conditional “No Exposure” Exemption. (Condition S1.F)
2. Industrial facilities that *discharge stormwater* only to a municipal *combined sewer* or *sanitary sewer*. *Discharge* of *stormwater* to *sanitary* or *combined sewers* shall only occur as authorized by the municipal sewage authority.
3. Industrial facilities that *discharge stormwater* only to groundwater (e.g., on-site infiltration) with no *discharge to surface waters of the state* under any condition.
4. Office buildings and/or administrative parking lots from which *stormwater* does not commingle with *stormwater* from areas associated with *industrial activity*.
5. Any part of a *facility* with a *discharge* that is in compliance with the instructions of an On-Scene-Coordinator pursuant to 40 CFR part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances), in accordance with 40 CFR 122.3(d).
6. Any *land application site* used for the beneficial use of industrial or municipal wastewater for agricultural activities or when applied for landscaping purposes at agronomic rates.
7. Any farmland, domestic garden, or land used for sludge management where domestic sewage sludge (biosolids) is beneficially reused (nutrient builder or soil conditioner) and which is not physically located in the confines of domestic sewage treatment works, or areas that are in compliance with Section 405 (Disposal of Sewage Sludge) of the *Clean Water Act (CWA)*.

8. Any inactive coal mining operation if:
 - a. The performance bond issued to the *facility* by the appropriate Surface Mining Control and Reclamation Act (SMCRA) authority has been released from applicable state or federal reclamation requirements after December 17, 1990.
 - b. The mine does not have a *discharge of stormwater* that comes in contact with any overburden, raw material, intermediate products, finished products, byproducts, or waste products located on the site of the *facility*.
9. Inactive mining, inactive oil and gas operations, or inactive *landfills* where neither an owner nor an operator can be identified.
10. Closed *landfills* that are capped and stabilized, in compliance with Chapter 173-304 WAC, and in which no *significant materials* or industrial *pollutants* remain exposed to *stormwater*. Permittee's with existing coverage may submit a *Notice of Termination* in accordance with Special Condition S13.A.1.

D. Facilities Excluded from Coverage

Ecology will not cover the following facilities or activities under this permit:

1. If any part of a *facility*, in the categories listed below, has a *stormwater discharge* subject to *stormwater* Effluent Limitations Guidelines, New Source Performance Standards (NSPS) Under *40 CFR* Subchapter N, or Toxic Pollutant Effluent Standards under *40 CFR* Subchapter D Part 129; the operator of the facility must apply for an individual NPDES permit or seek coverage under an industry-specific *general permit* for those *stormwater discharges*.

Below is a list of categories of industries specified in *40 CFR* Subchapter N for which at least one subpart includes *stormwater* effluent limitations guidelines or NSPS. Industries included in this list should review the Subchapter N guidelines to determine if they are subject to a *stormwater* effluent limitation guideline for activities which they perform at their site.

40 CFR 411 Cement manufacturing	40 CFR 423 Steam electric power generating
40 CFR 412 Feedlots	40 CFR 434 Coal mining
40 CFR 418 Fertilizer manufacturing	40 CFR 436 Mineral mining and processing
40 CFR 419 Petroleum refining	40 CFR 440 Ore mining and dressing
40 CFR 422 Phosphate manufacturing	40 CFR 443 Paving and roofing materials (tars & asphalt)
40 CFR 449.11(a) Airports with more than 10,000 annual jet departures.	

Facilities, which are subject to effluent standards in *40 CFR* Subchapter D Part 129: Aldrin/Dieldrin; DDT; Endrin; Toxaphene; Benzidine; or Polychlorinated Biphenyls (PCBs), shall apply for an individual NPDES permit.

2. Nonpoint source silvicultural activities with natural *runoff* that are excluded in *40 CFR* Subpart 122.27.

S1.D.3

3. Industrial activities operated by any department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government of the United States, or another entity, such as a private contractor, performing industrial activity for any such department, agency, or instrumentality.
4. Facilities located on “Indian Country” as defined in 18 U.S.C. §1151, except portions of the Puyallup Reservation as noted below.

Indian Country includes:

- a. All land within any Indian Reservation notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation. This includes all federal, tribal, and Indian and non-Indian privately owned land within the reservation.
- b. All off-reservation Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.
- c. All off-reservation federal trust lands held for Native American Tribes.

Puyallup Exception: Following the *Puyallup Tribes of Indians Land Settlement Act of 1989*, 25 U.S.C. §1773; the permit does apply to land within the Puyallup Reservation except for discharges to surface water on land held in trust by the federal government.

5. Any facility authorized to *discharge stormwater* associated with *industrial activity* under an existing NPDES individual or other *general permit*.
6. All *construction activities*. Operators of these construction activities shall seek coverage under the Construction Stormwater General Permit or an individual NPDES permit for *stormwater* associated with *construction activity*.
7. Facilities that *discharge* to a waterbody with a *control plan*, unless this *general permit* adequately provides the level of protection required by the *control plan*.
8. *New dischargers* to a waterbody listed pursuant to Section 303(d) of the CWA, unless the Permittee meets the requirements of Condition S6.B.
9. Hazardous waste *landfills* subject to 40 CFR Part 445, Subpart A.

E. Discharges to Ground

1. For sites that *discharge* to both surface water and *ground water*, the terms and conditions of this permit shall apply to all *ground water discharges*. However, Permittees are not required to sample on-site discharges to ground (e.g., infiltration), unless specifically required by *Ecology* (Condition G12).
2. Facilities that *discharge* to *ground water* through an *underground injection control well* shall comply with any applicable requirements of the Underground Injection Control (UIC) regulations, Chapter 173-218 WAC.

F. Conditional "No Exposure" Exemption

1. Any *industrial activity* identified for coverage under Condition S1.A. that is eligible for a "No Exposure" exemption from the permit under 40 CFR 122.26 (g), may submit a No Exposure Certification Form to *Ecology*, either in writing or electronically.
 - a. A Permittee is automatically granted a No Exposure exemption 90 days from *Ecology's* receipt of a complete and accurate No Exposure Certification Form, unless *Ecology* informs the applicant in writing or electronically within 90 days that it has denied or approved the request.
 - b. *Ecology* will automatically terminate permit coverage when it grants the No Exposure exemption to a permitted *facility*.
 - c. Facilities which are granted a No Exposure exemption must submit a No Exposure Certification Form to *Ecology* once every five years.
 - d. No Exposure exemptions are conditional. If there is a change at the *facility* that results in the exposure of industrial activities or materials to *stormwater*, the *facility* is required to immediately apply for and obtain a permit.

S2. APPLICATION FOR COVERAGE

A. Obtaining Permit Coverage

1. Unpermitted facilities that require coverage under this permit shall submit a complete and accurate permit *application* to *Ecology* as follows:
 - a. Existing Facilities
 - i. Unpermitted *existing facilities* that require coverage under this permit shall submit a complete and accurate permit *application* to *Ecology*.
 - ii. *Existing facilities* are facilities in operation prior to the effective date of this permit, January 2, 2015.
 - b. New Facilities

New facilities are facilities that begin operation on or after the effective date of this permit, January 2, 2015. All unpermitted *new facilities* shall:

 - i. Submit a complete and accurate permit *application* to *Ecology* at least 60 days before the commencement of *stormwater discharge* from the *facility*.
 - ii. The *application* shall include certification that the *facility* has met the applicable public notice and *State Environmental Policy Act (SEPA)* requirements in WAC 173-226-200(f).

B. Modification of Permit Coverage

A Permittee anticipating a *significant process change*, or otherwise requesting a modification of permit coverage, shall submit a complete Modification of Coverage Form to *Ecology*. The Permittee shall:

S2.B.1

1. Apply for modification of coverage at least 60 days before implementing a *significant process change*; or by May 15th prior to a Corrective Action deadline, if requesting a Level 2 or 3 time extension or waiver request per Condition S8.B-D.
2. Complete the public notice requirements in WAC 173-226-130(5) as part of a complete *application* for modification of coverage.
3. Comply with SEPA as part of a complete *application* for modification of coverage if undergoing a *significant process change*.

C. Permit Coverage Timeline

1. If the applicant does not receive notification from *Ecology*, permit coverage automatically commences on whichever of the following dates occurs last:
 - a. The 31st day following receipt by *Ecology* of a completed *application* for coverage.
 - b. The 31st day following the end of a 30-day public comment period.
 - c. The effective date of the *general permit*.
2. *Ecology* may need additional time to review the *application*:
 - a. If the *application* is incomplete.
 - b. If it requires additional site-specific information.
 - c. If the public requests a public hearing.
 - d. If members of the public file comments.
 - e. When more information is necessary to determine whether coverage under the *general permit* is appropriate.
3. When *Ecology* needs additional time:
 - a. *Ecology* will notify the applicant in writing within 30 days and identify the issues that the applicant must resolve before a decision can be reached.
 - b. *Ecology* will submit the final decision to the applicant in writing. If *Ecology* approves the *application* for coverage, coverage begins the 31st day following approval, or the date the approval letter is issued, whichever is later.

D. Transfer of Permit Coverage

Coverage under this *general permit* shall automatically transfer to a *new discharger*, if all of the following conditions are met:

1. The Permittee (existing *discharger*) and *new discharger* submit to *Ecology* a complete, written, signed agreement (Transfer of Coverage Form) containing a specific date for transfer of permit responsibility, coverage, and liability.
2. The type of industrial activities and practices remain substantially unchanged.
3. *Ecology* does not notify the Permittee of the need to submit a new *application* for coverage under the *general permit* or for an individual permit pursuant to Chapters 173-216, 173-220, and 173-226 WAC.
4. *Ecology* does not notify the existing *discharger* and *new discharger* of its intent to revoke coverage under the *general permit*. The transfer is effective on the date specified in the written agreement unless *Ecology* gives this notice.

S3. STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A. General Requirements

1. All Permittees and applicants for coverage under this permit shall develop and implement a SWPPP for the permitted *facility* as follows:
2. The SWPPP shall specify the *Best Management Practices* (BMPs) necessary to:
 - a. Provide *all known, available, and reasonable methods of prevention, control, and treatment (AKART)* of *stormwater pollution*.
 - b. Ensure the *discharge* does not cause or contribute to a violation of the *Water Quality Standards*.
 - c. Comply with applicable federal technology-based treatment requirements under *40 CFR 125.3*.
3. Proper Selection and Use of *Stormwater Management Manuals (SWMM)*:
BMPs shall be consistent with:
 - a. *Stormwater Management Manual* for Western Washington (2012 edition), for sites west of the crest of the Cascade Mountains; or
 - b. *Stormwater Management Manual* for Eastern Washington (2004 edition), for sites east of the crest of the Cascade Mountains; or
 - c. Revisions to the manuals in S3.A.3.a & b., or other *stormwater* management guidance documents or manuals which provide an equivalent level of *pollution* prevention, that are approved by *Ecology* and incorporated into this permit in accordance with the permit modification requirements of WAC 173-226-230. For purposes of this section, the documents listed in Appendix 10 of the August 1, 2013 Phase I Municipal Stormwater Permit are hereby incorporated into this permit; or

- d. Documentation in the SWPPP that the BMPs selected are *demonstrably equivalent* to practices contained in stormwater technical manuals approved by *Ecology*, including the proper selection, implementation, and maintenance of all applicable and appropriate *best management practices* for on-site *pollution* control.
4. Update of the SWPPP
 - a. The Permittee shall modify the SWPPP if the owner/operator or the applicable local or state regulatory authority determines during inspections or investigations that the SWPPP is, or would be, ineffective in eliminating or significantly minimizing *pollutants* in *stormwater* discharges from the site. The Permittee shall modify the SWPPP:
 - i. As necessary to include additional or modified BMPs designed to correct problems identified.
 - ii. To correct the deficiencies identified in writing from *Ecology* within 30 days of notice.
 - b. The Permittee shall modify the SWPPP whenever there is a change in design, construction, operation, or maintenance at the *facility* that significantly changes the nature of *pollutants* discharged in *stormwater* from the *facility*, or significantly increases the quantity of pollutants discharged.
 - c. If a Permittee covered under the 2010 ISGP needs to update their SWPPP to be consistent with the 2015 ISGP, the update shall be completed by January 30, 2015.
 5. Other *Pollution Control Plans*

The Permittee may incorporate by reference applicable portions of plans prepared for other purposes at their *facility*. Plans or portions of plans incorporated by reference into a SWPPP become enforceable requirements of this permit and must be available along with the SWPPP as required in S9.F. A *Pollution* Prevention Plan prepared under the Hazardous Waste Reduction Act, Chapter 70.95C RCW, is an example of such a plan.

6. Signatory Requirements

The Permittee shall sign and certify all SWPPPs in accordance with General Condition G2, each time it revises or modifies a SWPPP to comply with Conditions S3.A.4 (Update of the SWPPP), S7 (Inspections) or S8 (Corrective Actions). The SWPPP Certification Form is contained in Appendix 3 of this permit and on *Ecology*'s industrial stormwater website.

B. Specific SWPPP Requirements

The SWPPP shall contain a site map, a detailed assessment of the *facility*, a detailed description of the BMPs, Spill Prevention and Emergency Cleanup Plan, and a sampling plan. The Permittee shall identify any parts of the SWPPP which the *facility* wants to claim as Confidential Business Information.

S3.B.1

1. The site map shall identify:
 - a. The scale or include relative distances between significant structures and drainage systems.
 - b. Significant features.
 - c. The *stormwater* drainage and *discharge* structures and identify, by name, any other party other than the Permittee that owns any *stormwater* drainage or discharge structures.
 - d. The *stormwater* drainage areas for each *stormwater discharge* point off-site (including discharges to *ground water*) and assign a unique identifying number for each discharge point.
 - e. Each sampling location by unique identifying number.
 - f. Paved areas and buildings.
 - g. Areas of *pollutant* contact (actual or potential) associated with specific industrial activities.
 - h. Conditionally approved non-*stormwater* discharges (Condition S5.D).
 - i. Surface water locations (including wetlands and drainage ditches).
 - j. Areas of existing and potential soil *erosion* that could result in the discharge of a *significant amount* of turbidity, sediment or other pollutants.
 - k. *Vehicle maintenance* areas.
 - l. Lands and waters adjacent to the site that may be helpful in identifying *discharge* points or drainage routes.
2. The *facility* assessment shall include a description of the *facility*; an inventory of *facility* activities and equipment that contribute to or have the potential to contribute any *pollutants* to *stormwater*; and, an inventory of materials that contribute to or have the potential to contribute pollutants to *stormwater*.
 - a. The *facility* description shall describe:
 - i. The industrial activities conducted at the site.
 - ii. *Regular business hours* and seasonal variations in business hours or industrial activities.
 - iii. The general layout of the *facility* including buildings and storage of raw materials, and the flow of goods and materials through the *facility*.
 - b. The inventory of industrial activities shall identify all areas associated with industrial activities (see [Table 1](#)) that have been or may potentially be sources of *pollutants*, including, but not limited to, the following:
 - i. Loading and unloading of dry bulk materials or liquids.
 - ii. Outdoor storage of materials or products.
 - iii. Outdoor manufacturing and processing.

- iv. On-site dust or particulate generating processes.
 - v. On-site waste treatment, storage, or disposal.
 - vi. *Vehicle* and equipment fueling, maintenance, and/or cleaning (includes washing).
 - vii. Roofs or other surfaces exposed to *air emissions* from a manufacturing building or a process area.
 - viii. Roofs or other surfaces composed of materials that may be mobilized by *stormwater* (e.g., galvanized roofs, galvanized fences).
- c. The inventory of materials shall list:
- i. The types of materials handled at the site that potentially may be exposed to precipitation or *runoff* and could result in *stormwater pollution*.
 - ii. A short narrative for each material describing the potential of the *pollutant* to be present in *stormwater* discharges. The Permittee shall update this narrative when data become available to verify the presence or absence of these pollutants.
 - iii. A narrative description of any potential sources of *pollutants* from past activities, materials and spills that were previously handled, treated, stored, or disposed of in a manner to allow ongoing exposure to *stormwater*. Include the method and location of on-site storage or disposal. List significant spills and significant leaks of toxic or hazardous pollutants.
3. The SWPPP shall identify specific individuals by name or by title within the organization (*pollution prevention team*) whose responsibilities include: SWPPP development, implementation, maintenance, and modification.
4. *Best Management Practices* (BMPs)
- a. General BMP Requirements
The Permittee shall describe each BMP selected to eliminate or reduce the potential to contaminate *stormwater* and prevent violations of *water quality standards*. The SWPPP must explain in detail how and where the selected BMPs will be implemented.
 - b. The Permittee shall include each of the following mandatory BMPs in the SWPPP and implement the BMPs. The Permittee may omit individual BMPs if site conditions render the BMP unnecessary, infeasible, or the Permittee provides alternative and equally effective BMPs; if the Permittee clearly justifies each BMP omission in the SWPPP.
 - i. *Operational Source Control BMPs*
 - 1) The SWPPP shall include the *Operational Source Control BMPs* listed as “applicable” in *Ecology’s* SWMMs, or other guidance documents or manuals approved in accordance with S3.A.3.c.

- 2) Good Housekeeping: The SWPPP shall include BMPs that define ongoing maintenance and cleanup, as appropriate, of areas which may contribute *pollutants* to *stormwater* discharges. The SWPPP shall include the schedule/frequency for completing each housekeeping task, based upon *industrial activity*, sampling results and observations made during inspections. The Permittee shall:
 - a) Vacuum paved surfaces with a vacuum sweeper (or a sweeper with a vacuum attachment) to remove accumulated *pollutants* a minimum of once per quarter.
 - b) Identify and control all on-site sources of dust to minimize *stormwater* contamination from the deposition of dust on areas exposed to precipitation.
 - c) Inspect and maintain bag houses monthly to prevent the escape of dust from the system. Immediately remove any accumulated dust at the base of exterior bag houses.
 - d) Keep all dumpsters under cover or fit with a lid that must remain closed when not in use.

- 3) Preventive Maintenance: The SWPPP shall include BMPs to inspect and maintain the *stormwater* drainage, source controls, treatment systems (if any), and plant equipment and systems that could fail and result in contamination of *stormwater*. The SWPPP shall include the schedule/frequency for completing each maintenance task. The Permittee must:
 - a) Clean catch basins when the depth of debris reaches 60% of the sump depth. In addition, the Permittee must keep the debris surface at least 6 inches below the outlet pipe.
 - b) Maintain ponds, tanks/vaults, catch basins, swales, filters, oil/water separators, drains, and other stormwater drainage/treatment facilities in accordance with the Maintenance Standards set forth in the applicable Stormwater Management Manual (SWMM), other guidance documents or manuals approved in accordance with S3.A.3.c., demonstrably equivalent BMPs per S3.A.3.d., or an O&M Manual submitted to Ecology in accordance with S8.D.
 - c) Inspect all equipment and vehicles during monthly site inspections for leaking fluids such as oil, antifreeze, etc. Take leaking equipment and *vehicles* out of service or prevent leaks from spilling on the ground until repaired.
 - d) Immediately clean up spills and leaks (e.g., using absorbents, vacuuming) to prevent the *discharge* of *pollutants*.

- 4) Spill Prevention and Emergency Cleanup Plan (SPECP): The SWPPP shall include a SPECP that includes BMPs to prevent spills that can contaminate *stormwater*. The SPECP shall specify BMPs for *material handling* procedures, storage requirements, cleanup equipment and procedures, and spill logs, as appropriate. The Permittee shall:
 - a) Store all chemical liquids, fluids, and petroleum products, on an impervious surface that is surrounded with a containment berm or dike that is capable of containing 10% of the total enclosed tank volume or 110% of the volume contained in the largest tank, whichever is greater.
 - b) Prevent precipitation from accumulating in containment areas with a roof or equivalent structure or include a plan on how it will manage and dispose of accumulated water if a containment area cover is not practical.
 - c) Locate spill kits within 25 feet of all stationary fueling stations, fuel transfer stations, mobile fueling units, and used oil storage/transfer stations. At a minimum, spill kits shall include:
 - i) Oil absorbents capable of absorbing 15 gallons of fuel.
 - ii) A storm drain plug or cover kit.
 - iii) A non-water containment boom, a minimum of 10 feet in length with a 12-gallon absorbent capacity.
 - iv) A non-metallic shovel.
 - v) Two five-gallon buckets with lids.
 - d) Not lock shut-off fueling nozzles in the open position. Do not “top-off” tanks being refueled.
 - e) Block, plug or cover storm drains that receive *runoff* from areas where fueling, during fueling.
 - f) Use drip pans or equivalent containment measures during all petroleum transfer operations.
 - g) Locate materials, equipment, and activities so that leaks are contained in existing containment and diversion systems (confine the storage of leaky or leak-prone *vehicles* and equipment awaiting maintenance to protected areas).
 - h) Use drip pans and absorbents under or around leaky *vehicles* and equipment or store indoors where feasible. Drain fluids from equipment and *vehicles* prior to on-site storage or disposal.
 - i) Maintain a spill log that includes the following information for chemical and petroleum spills: date, time, amount, location, and reason

for spill; date/time cleanup completed, notifications made and staff involved.

- 5) Employee Training: The SWPPP shall include BMPs to provide SWPPP training for employees who have duties in areas of industrial activities subject to this permit. At a minimum, the training plan shall include:
 - a) The content of the training.
 - i) An overview of what is in the SWPPP.
 - ii) How employees make a difference in complying with the SWPPP and preventing contamination of *stormwater*.
 - iii) Spill response procedures, good housekeeping, maintenance requirements, and material management practices.
 - b) How the Permittee will conduct training.
 - c) The frequency/schedule of training. The Permittee shall train employees annually, at a minimum.
 - d) A log of the dates on which specific employees received training.
- 6) Inspections and Recordkeeping: The SWPPP shall include documentation of procedures to ensure compliance with permit requirements for inspections and recordkeeping. At a minimum, the SWPPP shall:
 - a) Identify *facility* personnel who will inspect designated equipment and *facility* areas as required in Condition S7.
 - b) Contain a visual inspection report or check list that includes all items required by Condition S7.C.
 - c) Provide a tracking or follow-up procedure to ensure that a report is prepared and any appropriate action taken in response to visual inspections.
 - d) Define how the Permittee will comply with signature requirements and records retention identified in Special Condition S9, Reporting and Recordkeeping Requirements.
 - e) Include a certification of compliance with the SWPPP and permit for each inspection using the language in S7.C.1.c.
 - f) Include all inspection reports completed by the Permittee (S7.C).
- 7) *Illicit Discharges*: The SWPPP shall include measures to identify and eliminate the *discharge* of *process wastewater*, *domestic wastewater*, *noncontact cooling water*, and other *illicit discharges*, to *stormwater* sewers, or to surface waters and *ground waters of the state*. The Permittee can find BMPs to identify and eliminate *illicit discharges* in Volume IV of

Ecology's SWMM for Western Washington and Chapter 8 of the SWMM for Eastern Washington.

Water from washing *vehicles* or equipment, steam cleaning and/or pressure washing is considered *process wastewater*. The Permittee must not allow this process wastewater to comingle with *stormwater* or enter storm drains; and must collect in a tank for off-site disposal, or *discharge* it to a *sanitary sewer*, with written approval from the local sewage authority.

ii. *Structural Source Control BMPs*

- 1) The SWPPP shall include the *Structural Source Control BMPs* listed as “applicable” in *Ecology's* SWMMs, or other guidance documents or manuals approved in accordance with S3.A.3.c.
- 2) The SWPPP shall include BMPs to minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and *runoff* by either locating these industrial materials and activities inside or protecting them with storm resistant coverings.

Permittees shall:

- a) Use grading, berming, or curbing to prevent *runoff* of contaminated flows and divert run-on away from these areas.
- b) Perform all cleaning operations indoors, under cover, or in bermed areas that prevent *stormwater runoff* and run-on, also that capture any overspray.
- c) Ensure that all washwater drains to a collection system that directs the washwater to further treatment or storage and not to the *stormwater drainage system*.

iii. *Treatment BMPs*

The Permittee shall:

- 1) Use *Treatment BMPs* consistent with the applicable documents referenced in Condition S3.A.3.
- 2) Employ oil/water separators, booms, skimmers, or other methods to eliminate or minimize oil and grease contamination of *stormwater* discharges.
- 3) Obtain *Ecology* approval before beginning construction/installation of all *treatment BMPs* that include the addition of chemicals to provide treatment.

iv. *Stormwater Peak Runoff Rate and Volume Control BMPs*

Facilities with *new development* or *redevelopment* shall evaluate whether flow control BMPs are necessary to satisfy the state's AKART requirements, and prevent violations of water quality standards. If flow control BMPs are required, they shall be selected according to S3.A.3.

v. *Erosion and Sediment Control BMPs*

The SWPPP shall include BMPs necessary to prevent the *erosion* of soils and other earthen materials (crushed rock/gravel, etc.), control off-site *sedimentation*, and prevent violations of *water quality standards*. The Permittee shall implement and maintain:

- 1) *Sediment* control BMPs such as *detention* or retention ponds or traps, vegetated filter strips, bioswales, or other permanent *sediment* control BMPs to minimize *sediment* loads in *stormwater* discharges.
- 2) Filtration BMPs to remove solids from catch basins, sumps or other *stormwater* collection and conveyance system components (catch basin filter inserts, filter socks, modular canisters, sand filtration, centrifugal separators, etc.).

5. Sampling Plan

The SWPPP shall include a sampling plan. The plan shall:

- a. Identify points of *discharge* to surface water, *storm sewers*, or discrete *ground water* infiltration locations, such as dry wells or *detention* ponds.
- b. Include documentation of why applicable parameters are not sampled at each *discharge* point per S4.B.2.c (if applicable):
 - i. Location of which *discharge* points the Permittee does not sample applicable parameters because the *pollutant* concentrations are substantially identical to a discharge point being sampled.
 - ii. General industrial activities conducted in the drainage area of each *discharge* point.
 - iii. *Best Management Practices* conducted in the drainage area of each discharge point.
 - iv. Exposed materials located in the drainage area of each *discharge* point that are likely to be significant contributors of *pollutants* to *stormwater discharges*.
 - v. Impervious surfaces in the drainage area that could affect the percolation of *stormwater runoff* into the ground (e.g., asphalt, crushed rock, grass).
 - vi. Reasons why the Permittee expects the *discharge* points to discharge substantially identical effluents.
- c. Identify each sampling location by its unique identifying number such as A1, A2.
- d. Identify staff responsible for conducting *stormwater* sampling.

- e. Specify procedures for sample collection and handling.
- f. Specify procedures for sending samples to a laboratory.
- g. Identify parameters for analysis, holding times and preservatives, laboratory *quantitation levels*, and analytical methods.
- h. Specify the procedure for submitting results to *Ecology*.

S4. GENERAL SAMPLING REQUIREMENTS

A. General Requirements

The Permittee shall conduct sampling of *stormwater* in accordance with this permit and the SWPPP.

B. Sampling Requirements

1. Sample Timing and Frequency

- a. The Permittee shall sample the *discharge* from each designated location at least once per quarter:
 - 1st Quarter = January, February, and March
 - 2nd Quarter = April, May, and June
 - 3rd Quarter = July, August, and September
 - 4th Quarter = October, November, and December
- b. Permittees shall sample the *stormwater discharge* from the *first fall storm event* each year. “First fall storm event” means the first time on or after October 1st of each year that precipitation occurs and results in a *stormwater discharge* from a *facility*.
- c. Permittees shall collect samples within the first 12 hours of *stormwater discharge* events. If it is not possible to collect a sample within the first 12 hours of a *stormwater* discharge event, the Permittee must collect the sample as soon as practicable after the first 12 hours, and keep documentation with the sampling records (Condition S4.B.3) explaining why they could not collect samples within the first 12 hours; or if it is unknown (e.g., discharge was occurring during start of regular business hours).
- d. The Permittee shall obtain *representative samples*, which may be a single grab sample, a time-proportional sample, or a flow-proportional sample.
- e. Permittees need not sample outside of *regular business hours*, during unsafe conditions, or during quarters where there is no discharge, but shall submit a Discharge Monitoring Report each reporting period (Condition S9.A).

2. Sample Location(s)

- a. The Permittee shall designate sampling location(s) at the point(s) where it discharges *stormwater* associated with *industrial activity* off-site.

S4.B.2.b

- b. The Permittee is not required to sample on-site discharges to ground (e.g., infiltration) or *sanitary sewer* discharges, unless specifically required by *Ecology* (Condition G12).
- c. The Permittee shall sample each distinct point of *discharge* off-site except as otherwise exempt from monitoring as a “*substantially identical discharge point*” per S3.B.5.b. If applicable, the Permittee is only required to monitor applicable parameters at one of the “substantially identical discharge points”.
- d. The Permittee shall notify *Ecology* of any changes or updates to sample locations, *discharge points*, and/or *outfalls* by submitting an “Industrial Stormwater General Permit Discharge/Sample Point Update Form” to *Ecology*.

3. Sample Documentation

For each *stormwater* sample taken, the Permittee shall record the following information and retain it on-site for *Ecology* review:

- a. Sample date.
 - b. Sample time.
 - c. A notation describing if the Permittee collected the sample within the first 12 hours of *stormwater* discharge events; or, if it is unknown (e.g., discharge was occurring during start of regular business hours).
 - d. An explanation of why the Permittee could not collect a sample within the first 12 hours of a *stormwater discharge* event, if it was not possible. Or, if it is unknown, an explanation of why the Permittee does not know if a sample was collected within or outside the first 12 hours of stormwater discharge.
 - e. Sample location (using SWPPP identifying number).
 - f. Method of sampling, and method of sample preservation, if applicable.
 - g. Individual who performed the sampling.
 - h. Weather conditions.
- #### 4. Laboratory Documentation

The Permittee shall retain laboratory reports on-site for *Ecology* review and shall ensure that all laboratory reports providing data for all parameters include the following information:

- a. Date of analysis.
- b. Parameter name.
- c. CAS number, if applicable.
- d. Analytical method(s).
- e. Individual who performed the analysis.
- f. Method detection limit (MDL).
- g. Laboratory *quantitation level* (QL) achieved by the laboratory.

S4.B.4.h

- h. Reporting units.
 - i. Sample result.
 - j. Quality assurance/quality control data.
5. The Permittee shall maintain the original records onsite and make them available to *Ecology* upon request.
 6. The Permittee may suspend sampling for one or more parameters (other than “visible oil sheen”) for a period of three years (12 quarters) based on consistent attainment of *benchmark* values when:
 - a. Eight consecutive quarterly samples demonstrate a reported value equal to or less than the *benchmark* value; or for pH, within the range of 5.0 – 9.0.
 - b. For purposes of tallying “consecutive quarterly samples”:
 - i. Do not include any quarters in which the Permittee did not collect a sample, but should have (e.g., discharge(s) occurred during normal working hours, and during safe conditions; but no sample was collected during the entire quarter). If this occurs, the tally of consecutive quarterly samples is reset to zero.
 - ii. Do not include any quarters in which the Permittee did not collect a sample because there was no *discharge* during the quarter (or the discharges during the quarter occurred outside normal working hours or during unsafe conditions). These quarters are not included in the calculation of eight consecutive quarters, but do not cause the tally to be reset; i.e., they are skipped over.
 - c. Permittees monitoring more than once per quarter shall average all of the monitoring results for each parameter (except pH and “visible oil sheen”) and compare the average value to the *benchmark* value. However, if Permittees collect more than one sample during a 24-hour period, they must first calculate the *daily average* of the individual grab sample results collected during that 24-hour period; then use the *daily average* to calculate a quarterly average.
 7. A Permittee who has a *significant process change* shall not use previous sampling results to demonstrate consistent attainment.
 8. Suspension of sampling based on consistent attainment *does not* apply to *pollutant* parameters subject to numeric effluent limits based on federal Effluent Limitation Guidelines (Condition S5.C) or Section 303(d) of the *Clean Water Act* (Condition S6).

C. Analytical Procedures for Sampling Requirements

The Permittee shall ensure that analytical methods used to meet the sampling requirements in this permit conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136, unless specified otherwise in this permit.

D. Laboratory Accreditation

1. The Permittee shall ensure that all analytical data required by *Ecology* is prepared by a laboratory registered or accredited under the provisions of, Accreditation of Environmental Laboratories, Chapter 173-50 WAC.
2. *Turbidity* and pH are exempt from this requirement, unless the laboratory must be registered or accredited for any other parameter.

S5. BENCHMARKS, EFFLUENT LIMITATIONS, AND SPECIFIC SAMPLING REQUIREMENTS

A. Benchmarks and Sampling Requirements

1. Permittees shall sample their *stormwater discharges* as specified in Condition S4 and as specified in [Table 2](#).
2. Additional sampling and/or requirements apply to specific industrial categories (S5.B), and facilities subject to effluent limitation guidelines (S5.C), and certain discharges to impaired waters (S6).
3. If a Permittee's discharge exceeds a *benchmark* listed in [Table 2](#), the Permittee shall take the actions specified in Condition S8. Permittees sampling more than once per quarter shall average the sample results for each parameter (except pH and “visible oil sheen”) and compare the average value to the *benchmark* to determine if the discharge has exceeded a *benchmark* value. However, if Permittees collect more than one sample during a 24-hour period, they must first calculate the *daily average* of the individual grab sample results collected during that 24-hour period; then use the *daily average* to calculate a quarterly average.

Table 2: Benchmarks and Sampling Requirements Applicable to All Facilities

Parameter	Units	Benchmark Value	Analytical Method	Laboratory Quantitation Level ^a	Minimum Sampling Frequency ^b
Turbidity	NTU	25	EPA 180.1 Meter	0.5	1/quarter
pH	Standard Units	Between 5.0 and 9.0	Meter/Paper ^c	±0.5	1/quarter
Oil Sheen	Yes/No	No Visible Oil Sheen	N/A	N/A	1/quarter
Copper, Total	µg/L	Western WA: 14 Eastern WA: 32	EPA 200.8	2.0	1/quarter
Zinc, Total	µg/L	117	EPA 200.8	2.5	1/quarter

^a. The Permittee shall ensure laboratory results comply with the quantitation level (QL) specified in the table. However, if an alternate method from 40 CFR Part 136 is sufficient to produce measurable results in the sample, the Permittee may use that method for analysis. If the Permittee uses an alternative method it must report the test method and QL on the DMR. If the Permittee is unable to obtain the required QL due to matrix effects, the Permittee must report the matrix-specific method detection level (MDL) and QL on the DMR.

^b. 1/quarter means at least one sample taken each quarter, year-round.

^c. Permittees shall use either a calibrated pH meter or narrow-range pH indicator paper with a resolution not greater than ± 0.5 SU.

B. Additional Sampling Requirements for Specific Industrial Groups

1. In addition to the requirements in [Table 2](#), all Permittees identified by an *industrial activity* in [Table 3](#) shall sample *stormwater* discharges as specified in Condition S4 and in [Table 3](#).
2. If a *discharge* exceeds a *benchmark* listed in [Table 3](#), the Permittee shall take the actions specified in Condition S8. Permittees sampling more than once per quarter shall average the sample results for each parameter and compare the average value to the *benchmark* to determine if the discharge has exceeded a *benchmark*. However, if Permittees collect more than one sample during a 24-hour period, they must first calculate the *daily average* of the individual grab sample results collected during that 24-hour period; then use the *daily average* to calculate a quarterly average.

Table 3: Additional Benchmarks and Sampling Requirements Applicable to Specific Industries

Parameter	Units	Benchmark Value	Analytical Method	Laboratory Quantitation Level ^a	Minimum Sampling Frequency ^b
1. Chemical and Allied Products (28xx), Food and Kindred Products (20xx)					
BOD ₅	mg/L	30	SM 5210B	2	1/quarter
Nitrate + Nitrite Nitrogen, as N	mg/L	0.68	SM4500 NO3-E/F/H	0.10	1/quarter
Phosphorus, Total	mg/L	2.0	EPA 365.1	0.10	1/quarter
2. Primary Metals(33xx), Metals Mining (10xx), Automobile Salvage and Scrap Recycling (5015 and 5093), Metals Fabricating (34xx)					
Lead, Total	µg/L	81.6	EPA 200.8	0.5	1/quarter
Petroleum Hydrocarbons (Diesel Fraction)	mg/L	10	NWTPH-Dx	0.1	1/quarter
3. Hazardous Waste Treatment, Storage and Disposal Facilities and Dangerous Waste Recyclers subject to the provisions of Resource Conservation and Recovery Act (RCRA) Subtitle C					
Chemical Oxygen Demand (COD)	mg/L	120	SM5220-D	10	1/quarter
Total Ammonia (as N)	mg/L	2.1	SM4500-NH3- GH	0.3	1/quarter
TSS	mg/L	100	SM2540-D	5	1/quarter
Arsenic, Total	µg/L	150	EPA 200.8	0.5	1/quarter
Cadmium, Total	µg/L	2.1	EPA 200.8	0.25	1/quarter
Cyanide, Total	µg/L	22	EPA 335.4	10	1/quarter
Lead, Total	µg/L	81.6	EPA 200.8	0.5	1/quarter
Magnesium, Total	µg/L	64	EPA 200.8	50	1/quarter
Mercury, Total	µg/L	1.4	EPA 1631E	0.0005	1/quarter
Selenium, Total	µg/L	5.0	EPA 200.8	1.0	1/quarter
Silver, Total	µg/L	3.8	EPA 200.8	0.2	1/quarter
Petroleum Hydrocarbons (Diesel Fraction)	mg/L	10	NWTPH-Dx	0.1	1/quarter
4. Air Transportation^c (45xx)					
Total Ammonia (as N)	mg/L	2.1	SM4500-NH3- GH	0.3	1/quarter
BOD ₅	mg/L	30	SM 5210B	2	1/quarter
COD	mg/L	120	SM5220-D	10	1/quarter
Nitrate + Nitrite Nitrogen, as N	mg/L	0.68	SM 4500-NO3-E/F/H	0.10	1/quarter
Petroleum Hydrocarbons (Diesel Fraction)	mg/L	10	NWTPH-Dx	0.1	1/quarter

Parameter	Units	Benchmark Value	Analytical Method	Laboratory Quantitation Level ^a	Minimum Sampling Frequency ^b
5. Timber Product Industry (24xx), Paper and Allied Products (26xx)					
COD	mg/L	120	SM5220-D	10	1/quarter
TSS	mg/L	100	SM2540-D	5	1/quarter
6. Transportation (40xx – 44xx, except 4221-25), Petroleum Bulk Stations and Terminals (5171)					
Petroleum Hydrocarbons (Diesel Fraction)	mg/L	10	NWTPH-Dx	0.1	1/quarter

- a. The Permittee shall ensure laboratory results comply with the quantitation level (QL) specified in the table. However, if an alternate method from 40 CFR Part 136 is sufficient to produce measurable results in the sample, the Permittee may use that method for analysis. If the Permittee uses an alternative method it must report the test method and QL on the DMR. If the Permittee is unable to obtain the required QL due to matrix effects, the Permittee must report the matrix-specific method detection level (MDL) and QL on the DMR.
- b. 1/quarter means at least one sample taken each quarter, year-round.
- c. For airports where a single Permittee, or a combination of permitted facilities use more than 100,000 gallons of glycol-based deicing chemicals and/or 100 tons or more of urea on an average annual basis, monitor these additional five parameters in those *discharge points* that collect runoff from areas where deicing activities occur (SIC 4512-4581).

C. Landfills and Airports Subject to Effluent Limitation Guidelines

1. Permittees with discharges from the following activities shall comply with the effluent limits and monitor as specified in Condition S4 and [Tables 4](#) and [5](#).
2. The *discharge* of the *pollutants* at a level more than that identified and authorized by this permit for these activities shall constitute a violation of the terms and conditions of this permit.
3. Permittees operating non-hazardous waste *landfills* subject to the provisions of 40 CFR Part 445 Subpart B shall not exceed the effluent limits⁴ listed in [Table 4](#).

⁴ As set forth in 40 CFR Part 445 Subpart B, these numeric effluent limits apply to contaminated *stormwater* discharges from Municipal Solid Waste Landfills that have not been closed in accordance with 40 CFR 258.60, and to contaminated *stormwater* discharges from those landfills that are subject to the provisions of 40 CFR Part 257 except for discharges from any of the following facilities: (a) landfills operated in conjunction with other industrial or commercial operations, when the landfill receives only wastes generated by the industrial or commercial operation directly associated with the landfill; (b) landfills operated in conjunction with other industrial or commercial operations, when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes, provided that the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N as the industrial or commercial operation, or that the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation; (c) landfills operated in conjunction with CWT facilities subject to 40 CFR Part 437, so long as the CWT facility commingles the landfill wastewater with other non-landfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or (d) landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities, so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

Table 4: Effluent Limits Applicable to Non-Hazardous Waste Landfills Subject to 40 CFR Part 445 Subpart B

Parameter	Units	Average Monthly ^a	Maximum Daily ^b	Analytical Method ^c	Laboratory Quantitation Level ^d	Minimum Sampling Frequency ^e
BOD ₅	mg/L	37	140	EPA 405.1 or SM 5210B	2	1/quarter
TSS	mg/L	27	88	SM2540-D	5	1/quarter
Total Ammonia (as N)	mg/L	4.9	10	SM4500-NH3-GH.	0.3	1/quarter
Alpha Terpineol	µg/L	16	33	EPA 625	5	1/quarter
Benzoic Acid	µg/L	71	120	EPA 625	50	1/quarter
p-Cresol (4-methylphenol)	µg/L	14	25	EPA 8270D	10 µg/L	1/quarter
Phenol	µg/L	15	26	EPA 625	4.0	1/quarter
Zinc, Total	µg/L	110	200	EPA 200.8	2.5	1/quarter
pH	SU	Between 6.0 and 9.0		Meter	±0.1	1/quarter

- ^a. Average monthly effluent limit means the highest allowable average of daily discharges over a calendar month. To calculate the discharge value to compare to the limit, you add the value of each daily discharge measured during a calendar month and divide this sum by the total number of daily discharges measured. If only one sample is taken during the calendar month, the average monthly effluent limitation applies to that sample. If only one sample is taken during the reporting period, the average monthly effluent limitation applies to that sample.
- ^b. Maximum daily effluent limit means the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during a calendar day. The daily discharge is the average measurement of the pollutant over the day; this does not apply to pH.
- ^c. Or other equivalent EPA-approved method with the same or lower quantitation level.
- ^d. The Permittee shall ensure laboratory results comply with the quantitation level (QL) specified in the table. However, if an alternate method from 40 CFR Part 136 is sufficient to produce measurable results in the sample, the Permittee may use that method for analysis. If the Permittee uses an alternative method it must report the test method and QL on the discharge monitoring report.
- ^e. 1/quarter means at least one sample taken each quarter, year-round.

4. Permittees operating airlines and airports subject to provisions of 40 CFR Part 449 shall comply with the following:
 - a. *Airfield Pavement Deicing*. Existing and new primary airports with 1,000 or more annual jet departures (*annual non-propeller aircraft departures*) that discharge wastewater associated with *airfield pavement deicing* commingled with stormwater must either use non-urea-containing deicers⁵, or meet the effluent limit in [Table 5](#) at every *discharge point*, prior to any dilution or any commingling with any non-*deicing* discharge.

Table 5: Effluent Limit Applicable to Airports Subject to 40 CFR Part 449

Parameter	Units	Maximum Daily ^a	Analytical Method ^b	Laboratory Quantitation Level ^c	Minimum Sampling Frequency ^d
Total Ammonia (as N)	mg/L	14.7	SM4500-NH3-GH.	0.3	1/quarter

- a. Maximum daily effluent limit means the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during a calendar day. The daily discharge is the average measurement of the pollutant over the day.
- b. Or other equivalent EPA-approved method with the same or lower quantitation level.
- c. The Permittee shall ensure laboratory results comply with the quantitation level (QL) specified in the table. However, if an alternate method from 40 CFR Part 136 is sufficient to produce measurable results in the sample, the Permittee may use that method for analysis. If the Permittee uses an alternative method it must report the test method and QL on the DMR. If the Permittee is unable to obtain the required QL due to matrix effects, the Permittee must report the matrix-specific method detection level (MDL) and QL on the DMR.
- d. 1/quarter means at least one sample taken each quarter, year-round.

D. Conditionally Authorized Non-Stormwater Discharges

1. The categories and sources of non-*stormwater* discharges identified in Condition S5.D.2, below, are conditionally authorized, provided:
 - a. The *discharge* is otherwise consistent with the terms and conditions of this permit, including Condition S5, S6 and S10.
 - b. The Permittee conducts the following assessment for each non-*stormwater discharge* (except for S5.D.2.a & f) and documents the assessment in the SWPPP, consistent with Condition S3.B.2. The Permittee shall:
 - i. Identify each source.
 - ii. Identify the location of the discharge into the *stormwater* collection system.
 - iii. Characterize the discharge including estimated flows or flow volume, and likely *pollutants* which may be present.
 - iv. Evaluate and implement available and reasonable *source control BMPs* to reduce or eliminate the discharge.

⁵ Affected Permittees must certify in its annual report that it does not use *airfield deicing* products that contain urea, or meet the numeric limit in [Table 5](#) (Condition S9.B.4).

- v. Evaluate compliance of the *discharge* with the state *water quality standards*.
 - vi. Identify appropriate BMPs for each discharge to control *pollutants* and or flow volumes.
2. Conditionally authorized non-*stormwater* discharges include:
 - a. Discharges from fire fighting activities.
 - b. Fire protection system flushing, testing, and maintenance.
 - c. Discharges of potable water including water line flushing, provided that water line flushing must be de-chlorinated prior to discharge.
 - d. Uncontaminated air conditioning or compressor condensate.
 - e. Landscape watering and irrigation drainage.
 - f. Uncontaminated *ground water* or spring water.
 - g. Discharges associated with dewatering of foundations, footing drains, or utility vaults where flows are not contaminated with process materials such as solvents.
 - h. Incidental windblown mist from cooling towers that collects on rooftops or areas adjacent to the cooling tower. This does not include intentional discharges from cooling towers such as piped cooling tower blow down or drains.

E. Prohibited Discharges

Unless authorized by a separate NPDES or state waste *discharge* permit, the following discharges are prohibited:

1. The discharge of *process wastewater* is not authorized. *Stormwater* that commingles with *process wastewater* is considered *process wastewater*.
2. *Illicit discharges* are not authorized by this permit. Conditionally authorized non-*stormwater* discharges in compliance with Condition S5.D are not *illicit discharges*.

F. General Prohibitions

Permittees shall manage *stormwater* to prevent the *discharge* of:

1. Synthetic, natural or processed oil or oil-containing products as identified by an oil sheen; and
2. Trash and floating debris.

S6. DISCHARGES TO IMPAIRED WATERS

A. General Requirements for Discharges to Impaired Waters

Permittees that *discharge* to an impaired *waterbody*, either directly or indirectly through a *stormwater drainage system*, shall conduct sampling and inspections in accordance with Conditions S4, S5, S6, and S7.

B. Eligibility for Coverage of New Discharges to Impaired Waters

Facilities that meet the definition of “*new discharger*” and *discharge* to a *303(d)-listed waterbody* (Category 5), an impaired waterbody with an *applicable TMDL* (Category 4A), or a pollution control program for sediment cleanup (i.e., a Category 4B sediment-impaired waterbody) are not eligible for coverage under this permit unless the *facility*:

1. Prevents all exposure to *stormwater* of the *pollutant(s)* for which the waterbody is impaired, and retains documentation of procedures taken to prevent exposure onsite with its SWPPP; or
2. Documents that the *pollutant(s)* for which the waterbody is impaired is not present at the *facility*, and retains documentation of this finding with the SWPPP; or
3. Provides *Ecology* with data to support a showing that the *discharge* is not expected to cause or contribute to an exceedance of a water quality standard, and retain such data onsite with its SWPPP. The *facility* must provide data and other technical information to *Ecology* sufficient to demonstrate:
 - a. For discharges to waters without an *EPA* approved or established *TMDL*, that the *discharge* of the *pollutant* for which the water is impaired will meet instream water quality criteria at the point of discharge to the waterbody; or
 - b. For discharges to waters with an *EPA* approved or established *TMDL*, that there are sufficient remaining *wasteload allocations* in an *EPA* approved or established *TMDL* to allow industrial *stormwater discharge* and that existing *dischargers* to the waterbody are subject to compliance schedules designed to bring the waterbody into attainment with *water quality standards*.

Facilities are eligible for coverage under this permit if *Ecology* issues permit coverage based upon an affirmative determination that the *discharge* will not cause or contribute to the existing impairment.

C. Additional Sampling Requirements and Effluent Limits for Discharges to Certain Impaired Waters and Puget Sound Sediment Cleanup Sites

1. Permittees discharging to a *303(d)-listed waterbody* (Category 5), either directly or indirectly through a *stormwater drainage system*, shall comply with the applicable sampling requirements and numeric effluent limits in [Table 6](#). If a *discharge point* is subject to an impaired waterbody effluent limit (Condition S6.C) for a parameter that also has a benchmark, the effluent limit supersedes the benchmark.
 - a. Facilities subject to these limits include, but may not be limited to, facilities listed in Appendix 4.
 - b. For purposes of this condition, “applicable sampling requirements and effluent limits” means the sampling and effluent limits in [Table 6](#) that correspond to the specific parameter(s) the receiving water is *303(d)-listed* for at the time of permit coverage, or Total Suspended Solids (TSS) if the waterbody is *303(d)-listed* (Category 5) for *sediment* quality at the time of permit coverage.

- c. For *discharge points* not subject to a TSS effluent limit under the 2010 ISGP, the TSS effluent limit in [Table 6](#) does not become effective until January 1, 2017. However, TSS sampling and reporting is effective January 2, 2015; or, for Permittees with an effective date of permit coverage after January 2, 2015, the first full quarter following permit coverage.

Table 6: Sampling and Effluent Limits Applicable to Discharges to 303(d)-listed Waters

Parameter	Units	Maximum Daily ^a		Analytical Method ^b	Laboratory Quantitation Level ^c	Sampling Frequency ^d
		Freshwater	Marine			
Turbidity	NTUs	25	25	EPA 180.1 Meter	0.5	1/quarter
pH	SU	^j	Between 7.0 and 8.5	Meter	±0.1	1/quarter
Fecal Coliform Bacteria	# colonies/100 mL	ⁱ	ⁱ	SM 9222D	20 CFU/100 mL	1/quarter
TSS ^f	mg/L	30	30	SM2540-D	5	1/quarter
Phosphorus, Total	mg/L	^g	^g	EPA 365.1	0.01	1/quarter
Total Ammonia (as N)	mg/L	^g	^g	SM 4500 NH ₃ -GH	0.3	1/quarter
Copper, Total	µg/L	^g	^g	EPA 200.8	2.0	1/quarter
Lead, Total	µg/L	^g	^g	EPA 200.8	0.5	1/quarter
Mercury, Total	µg/L	2.1	1.8	EPA1631E	0.0005	1/quarter
Zinc, Total	µg/L	^g	^g	EPA 200.8	2.5	1/quarter
Pentachlorophenol	µg/L	9 ^h	^g	EPA 625	1.0	1/quarter

^a Maximum daily effluent limit means the highest allowable daily discharge. The daily *discharge* means the *discharge of a pollutant* measured during a calendar day. The daily discharge is the average measurement of the *pollutant* over the day; this does not apply to pH.

^b Or other equivalent method with the same reporting level.

^c The Permittee shall ensure laboratory results comply with the *quantitation level* (QL) specified in the table. However, if an alternate method from *40 CFR* Part 136 is sufficient to produce measurable results in the sample, the Permittee may use that method for analysis. If the Permittee uses an alternative method it must report the test method and QL on the DMR. If the Permittee is unable to obtain the required QL due to matrix effects, the Permittee must report the matrix-specific method detection level (MDL) and QL on the DMR.

^d 1/quarter means at least one sample taken each quarter, e.g., Q1 = Jan 1 – March 31, Q2 = April 1 – June 30.

^e Permittees shall use either a calibrated pH meter consistent with *EPA 9040* or an approved state method.

^f Permittees who discharge to a waterbody 303(d)-listed (Category 5) for *sediment* quality shall sample the *discharge* for TSS.

^g Site-specific effluent limitation will be assigned at the time of permit coverage.

^h Based on a pH of 7.0.

ⁱ A numeric effluent limit does not apply, but Permittees must sample according to [Table 6](#). In addition, the following mandatory BMPs shall be incorporated into the SWPPP and implemented; the Permittee must:

- 1) Use all known, available and reasonable methods to prevent rodents, birds, and other animals from feeding/nesting/roosting at the facility. Nothing in this section shall be construed as allowing violations of any applicable federal, state or local statutes, ordinances, or regulations including the Migratory Bird Treaty Act.
- 2) Perform at least one annual dry weather inspection of the stormwater system to identify and eliminate sanitary sewer cross-connections.
- 3) Install structural source control BMPs to address on-site activities and sources that could cause bacterial contamination (e.g., dumpsters, compost piles, food waste, and animal products).
- 4) Implement operational source control BMPs to prevent bacterial contamination from any known sources of fecal coliform bacteria (e.g., animal waste).

S6.C.2

- 5) Conduct additional bacteria-related sampling and/or BMPs, if ordered by Ecology on a case-by-case basis.
 - j. The effluent limit for a Permittee who discharges to a freshwater body 303(d)-listed for pH is: Between 6.0 and 8.5, if the 303(d)-listing is for high pH only; Between 6.5 and 9.0, if the 303(d)-listing is for low pH only; and Between 6.5 and 8.5 if the 303(d)-listing is for both low and high pH. All pH effluent limits are applied end-of-pipe.
2. Permittees discharging to a *Puget Sound Sediment Cleanup Site*⁶, either directly or indirectly through a *stormwater drainage system*, shall comply with this section:
- a. Permittees shall sample the discharge for Total Suspended Solids (TSS) in accordance with [Table 7](#).
 - b. If the waterbody is listed within Category 5 (sediment medium) where the *outfall* discharges to the waterbody, the discharge is subject to the TSS numeric effluent limit in S6.C.1.c and [Table 6](#).
 - c. If the waterbody is not listed within Category 5 (sediment medium) where the *outfall* discharges to the waterbody, the discharge is subject to the TSS *benchmark* in [Table 7](#). If the discharge is subject to more than one TSS benchmark value, the lower benchmark supersedes the higher one. Beginning January 1, 2017, if a *discharge* exceeds the TSS benchmark, the Permittee shall comply with Condition S8.

Table 7: Benchmarks and Sampling Requirements Applicable to Discharges to Puget Sound Sediment Cleanup Sites that are not Category 5 for Sediment Quality

Parameter	Units	Benchmark Value ^a	Analytical Method	Laboratory Quantitation Level ^b	Minimum Sampling Frequency ^c
TSS	mg/L	30	SM2540-D	5	1/quarter

- a. Permittees sampling more than once per quarter shall average the sample results and compare the average value to the benchmark to determine if it the discharge has exceeded the benchmark value. However, if Permittees collect more than one sample during a 24-hour period, they must first calculate the daily average of the individual grab sample results collected during that 24-hour period; then use the daily average to calculate a quarterly average.
- b. The Permittee shall ensure laboratory results comply with the quantitation level (QL) specified in the table. However, if an alternate method from 40 CFR Part 136 is sufficient to produce measurable results in the sample, the Permittee may use that method for analysis. If the Permittee uses an alternative method it must report the test method and QL on the DMR. If the Permittee is unable to obtain the required QL due to matrix effects, the Permittee must report the matrix-specific method detection level (MDL) and QL on the DMR.
- c. 1/quarter means at least one sample taken each quarter, year-round.

⁶**Puget Sound Sediment Cleanup Site** means: Category 4B (Sediment) portions of Budd Inlet (Inner), Commencement Bay (Inner), Commencement Bay (Outer), Dalco Passage and East Passage, Duwamish Waterway (including East and West Waterway), Eagle Harbor, Elliot Bay, Hood Canal (North), Liberty Bay, Rosario Strait, Sinclair Inlet, and Thea Foss Waterway; Category 5 (Sediment) portions of the Duwamish Waterway (including East and West Waterway), and Port Gardner and Inner Everett Harbor; and the Port Angeles Harbor sediment cleanup area, as mapped on Ecology’s ISGP website. All references to Category 4B and 5 pertain to the 2012 EPA-approved Water Quality Assessment.

- d. Permittees shall remove accumulated solids from storm drain lines (including inlets, catch basins, sumps, conveyance lines, and oil/water separators) owned or controlled by the Permittee at least once prior to October 1, 2016.

Permittees shall conduct line cleaning operations (e.g., jetting, vacuuming, removal, loading, storage, and/or transport) using BMPs to prevent discharges of storm drain solids to surface waters of the state.

Removed storm drain solids and liquids shall be disposed of in accordance with applicable laws and regulations and documented in the SWPPP.

- i. If a Permittee can demonstrate that line cleaning operations are not feasible by the October 1, 2016 deadline, Ecology may approve a time extension by approving a modification of permit coverage.
 - ii. If a Permittee can demonstrate, based on video inspection, in-line storm drain solids sampling, or other documentation, that storm drain line cleaning is not necessary to prevent downstream sediment contamination or recontamination, Ecology may waive this requirement by approving a modification of permit coverage.
 - iii. Requests for line cleaning waivers or time extensions must be accompanied by a modification of coverage form, and a detailed technical basis to support the request. The due date for line cleaning waiver and extension requests is May 15, 2016.
- e. Permittees shall sample and analyze storm drain solids in accordance with [Table 8](#) at least once prior to October 1, 2016. Storm drain solids must be collected/sampled from a representative catch basin, sump, pipe, or other feature within the storm drain system that corresponds to the *discharge point* where Total Suspended Solids (TSS) samples are collected per Condition S6.C. Samples may be either a single grab sample or a composite sample. Samples must be representative of the storm drain solids generated and accumulated in the facility's drainage system. To the extent possible, sample locations must exclude portions of the drainage system affected by water from off-site sources (e.g., run-on from off-site properties, tidal influence, backflow).
- i. If a Permittee can demonstrate that storm drain solids sampling and analysis is not feasible by the October 1, 2016 deadline, Ecology may approve a time extension by approving a modification of permit coverage.
 - ii. If a Permittee can demonstrate that storm drain solids sampling and analysis is not feasible or not necessary, Ecology may waive this requirement by approving a modification of permit coverage.
 - iii. Requests for storm drain solids sampling and analysis waivers or time extensions must be accompanied by a modification of coverage form, and a detailed technical basis to support the request. The due date for solids sampling and analysis waiver and extension requests is May 15, 2016.

Table 8: Sampling and Analytical Procedures for Storm Drain Solids

Analyte	Method in Sediment	Quantitation Level ^a
Conventional Parameters		
Percent total solids	SM 2540G, or ASTM Method D 2216	NA
Total organic carbon	Puget Sound Estuary Protocols (PSEP 1997), or EPA 9060	0.1%
Grain size	Ecology Method Sieve and Pipette (ASTM 1997), ASTM D422, or PSEP 1986/2003	NA
Metals		
Antimony, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.2 mg/kg dw ^b
Arsenic, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.1 mg/kg dw
Beryllium, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.2 mg/kg dw
Cadmium, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.2 mg/kg dw
Chromium, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.5 mg/kg dw
Copper, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.2 mg/kg dw
Lead, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.2 mg/kg dw
Mercury, Total	EPA Method 1631E, or EPA Method 7471B	0.005 mg/kg dw
Nickel, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.1 mg/kg dw
Selenium, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.5 mg/kg dw
Silver, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.1 mg/kg dw
Thallium, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	0.2 mg/kg dw
Zinc, Total	EPA Method 200.8 (ICP/MS) , EPA Method 6010 or EPA Method 6020	5.0 mg/kg dw
Organics		
PAH compounds ^c	EPA Method 8270 D	70 µg/kg dw
PCBs (aroclor)s, Total ^d	EPA Method 8082	10 µg/kg dw
Petroleum Hydrocarbons		
NWTPH-Dx	NWTPH-Dx	25.0-100.0 mg/kg dw

^a. The Permittee shall ensure laboratory results comply with the quantitation level (QL) specified in the table. However, if an alternate method is sufficient to produce measurable results in the sample, the Permittee may use that method for analysis. If the Permittee uses an alternative method it must report the test method and QL on

S6.C.2.f

the sediment monitoring report. All results shall be reported. For values below the QL, or where a QL is not specified, report results at the method detection level (MDL) from the lab and the qualifier of “U” for undetected at that concentration. If the Permittee is unable to obtain the required QL due to matrix effects, the Permittee must report the matrix-specific MDL and QL on the DMR.

- b. dw = dry weight.
- c. PAH compounds include: 1-methylnaphthalene, 2-methylnaphthalene, 2-chloronaphthalene, acenaphthylene, acenaphthene, anthracene, benzo(a)anthracene, benzo(a)pyrene, benzo(b, k)fluoranthene, benzo(ghi)perylene, dibenzo(a,h)anthracene, dibenzofuran, carbazole, chrysene, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene, and pyrene.
- d. Total = sum of PCB aroclors 1016+1221+1232+1242+1248+1254+1260.

- f. All storm drain solids sampling data shall be reported to Ecology on a Solids Monitoring Report (SMR) no later than the DMR due date for the reporting period in which the solids were sampled, in accordance with Condition S9.A. A copy of the lab report shall be submitted to Ecology with the SMR.

D. Requirements for Discharges to Waters with Applicable TMDLs

1. The Permittee shall comply with *applicable TMDL* determinations. *Applicable TMDLs* or *TMDL* determinations are *TMDLs* which have been completed by the issuance date of this permit, or which have been completed prior to the date that the Permittee's *application* is received by *Ecology*, whichever is later. *Ecology* will list the Permittee's requirements to comply with this condition on the letter of permit coverage.
2. *TMDL* requirements associated with *TMDLs* completed after the issuance date of this permit only become effective if they are imposed through an administrative order issued by *Ecology*.
3. Where *Ecology* has established a *TMDL wasteload allocation* and sampling requirements for the Permittee's discharge, the Permittee shall comply with all requirements of the *TMDL* as listed in Appendix 5.
 - a. If a *discharge point* is subject to a *TMDL*-related effluent limit (Condition S6.D) for a parameter that also has a benchmark (Condition S5), the effluent limit supersedes the benchmark.
4. Where *Ecology* has established a *TMDL general wasteload allocation* for industrial *stormwater* discharges for a parameter present in the Permittee's discharge, but has not identified specific requirements, *Ecology* will assume the Permittee's compliance with the terms and conditions of the permit complies with the approved *TMDL*.
5. Where *Ecology* has not established a *TMDL wasteload allocation* for industrial *stormwater* discharges for a parameter present in the Permittee's discharge, but has not excluded these discharges, *Ecology* will assume the Permittee's compliance with the terms and conditions of this permit complies with the approved *TMDL*.
6. Where a *TMDL* for a parameter present in the Permittee's *discharge* specifically precludes or prohibits discharges of *stormwater* associated with *industrial activity*, the Permittee is not eligible for coverage under this permit.

S7. INSPECTIONS

A. Inspection Frequency and Personnel

1. The Permittee shall conduct and document visual inspections of the site each month.
2. The Permittee shall ensure that inspections are conducted by *qualified personnel*.

B. Inspection Components

Each inspection shall include:

1. Observations made at *stormwater* sampling locations and areas where *stormwater* associated with *industrial activity* is discharged off-site; or discharged to *waters of the state*, or to a *storm sewer* system that drains to *waters of the state*.
2. Observations for the presence of floating materials, visible oil sheen, discoloration, *turbidity*, odor, etc. in the *stormwater* discharge(s).
3. Observations for the presence of *illicit discharges* such as *domestic wastewater*, *noncontact cooling water*, or *process wastewater* (including *leachate*).
 - a. If an *illicit discharge* is discovered, the Permittee shall notify *Ecology* within seven days.
 - b. The Permittee shall eliminate the *illicit discharge* within 30 days.
4. A verification that the descriptions of potential *pollutant* sources required under this permit are accurate.
5. A verification that the site map in the SWPPP reflects current conditions.
6. An assessment of all BMPs that have been implemented, noting all of the following:
 - a. Effectiveness of BMPs inspected.
 - b. Locations of BMPs that need maintenance.
 - c. Reason maintenance is needed and a schedule for maintenance.
 - d. Locations where additional or different BMPs are needed and the rationale for the additional or different BMPs.

C. Inspection Results

1. The Permittee shall record the results of each inspection in an inspection report or checklist and keep the records on-site, as part of the SWPPP, for *Ecology* review. The Permittee shall ensure each inspection report documents the observations, verifications and assessments required in S7.B and includes:
 - a. Time and date of the inspection.
 - b. Locations inspected.
 - c. Statements that, in the judgment of 1) the person conducting the site inspection, and 2) the person described in Condition G2., the site is either in compliance or out of compliance with the terms and conditions of the SWPPP and this permit.

- d. A summary report and a schedule of implementation of the remedial actions that the Permittee plans to take if the site inspection indicates that the site is out of compliance. The remedial actions taken must meet the requirements of the SWPPP and the permit.
- e. Name, title, and signature of the person conducting site inspection; and the following statement: “I certify that this report is true, accurate, and complete, to the best of my knowledge and belief.”
- f. Certification and signature of the person described in Condition G2.A, or a duly authorized representative of the *facility*, in accordance with Condition G2.B and D.

D. Reports of Non-Compliance

The Permittee shall prepare reports of non-compliance identified during an inspection in accordance with the requirements of Condition S9.E.

S8. CORRECTIVE ACTIONS

A. Implementation of Source Control and Treatment BMPs from Previous Permit

In addition to the Corrective Action Requirements of S8.B-D, Permittees shall implement any applicable Level 1, 2 or 3 Responses required by the previous Industrial Stormwater *General Permit*(s). Permittees shall continue to operate and/or maintain any source control or *treatment BMPs* related to Level 1, 2 or 3 Responses implemented prior to the effective date of this permit.

B. Level One Corrective Actions – Operational Source Control BMPs

Permittees that exceed any applicable *benchmark* value(s) in [Table 2](#), [Table 3](#) and/or [Table 7](#) for any quarter shall complete a Level 1 Corrective Action for each parameter exceeded in accordance with the following:

1. Within 14 days of receipt of sampling results that indicate a benchmark exceedance for a given quarter ⁷; or, for parameters other than pH or visible oil sheen, the end of the quarter, whichever is later:
 - a. Conduct an inspection to investigate the cause.
 - b. Review the SWPPP and ensure that it fully complies with Permit Condition S3, and contains the correct BMPs from the applicable *Stormwater Management Manual*.
 - c. Make appropriate revisions to the SWPPP to include additional *Operational Source Control BMPs* with the goal of achieving the applicable *benchmark* value(s) in future discharges.
2. Summarize the Level 1 Corrective Actions in the Annual Report (Condition S9.B).

⁷ Based on quarterly average per Condition S5.A.3, S5.B.2 and/or S6.C.2.c. For pH and visible oil sheen, quarterly averaging is not allowed, so the 14 days begin upon receipt of a single benchmark exceedance.

3. **Level One Deadline:** The Permittee shall sign/certify and fully implement the revised SWPPP according to Permit Condition S3 and the applicable *Stormwater Management Manual* as soon as possible, but no later than the DMR due date for the quarter the *benchmark* was exceeded.

C. Level Two Corrective Actions – Structural Source Control BMPs

Permittees that exceed an applicable *benchmark* value in [Table 2](#), [Table 3](#) and/or [Table 7](#) (for a single parameter) for any two quarters during a calendar year shall complete a Level 2 Corrective Action in accordance with S8.C. Alternatively, the Permittee may skip Level 2 and complete a Level 3 Corrective Action in accordance with Condition S8.D.

1. Review the SWPPP and ensure that it fully complies with Permit Condition S3.
2. Make appropriate revisions to the SWPPP to include additional *Structural Source Control BMPs* with the goal of achieving the applicable *benchmark* value(s) in future discharges.
3. Summarize the Level 2 Corrective Actions (planned or taken) in the Annual Report (Condition S9.B).
4. **Level 2 Deadline:** The Permittee shall sign/certify and fully implement the revised SWPPP according to Permit Condition S3 and the applicable *Stormwater Management Manual* as soon as possible, but no later than August 31st the following year.
 - a. If installation of necessary *Structural Source Control BMPs* is not feasible by August 31st the following year, *Ecology* may approve additional time by approving a *Modification of Permit Coverage*.
 - b. If installation of *Structural Source Control BMPs* is not feasible or not necessary to prevent discharges that may cause or contribute to a violation of a water quality standard, *Ecology* may waive the requirement for additional *Structural Source Control BMPs* by approving a *Modification of Permit Coverage*.
 - c. To request a time extension or waiver, a Permittee shall submit a detailed explanation of why it is making the request (technical basis), and a *Modification of Coverage* form to *Ecology* in accordance with Condition S2.B, by May 15th prior to Level 2 Deadline. *Ecology* will approve or deny the request within 60 days of receipt of a complete *Modification of Coverage* request.
 - d. While a time extension is in effect, benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 Corrective Actions.
 - e. For the year following the calendar year the Permittee triggered a Level 2 corrective action, benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 Corrective Actions.

D. Level Three Corrective Actions – Treatment BMPs

Permittees that exceed an applicable *benchmark* value in [Table 2](#), [Table 3](#) and/or [Table 7](#) (for a single parameter) for any three quarters during a calendar year shall complete a

Level 3 Corrective Action in accordance with S8.D. A Level 2 Corrective Action is not required.

1. Review the SWPPP and ensure that it fully complies with Permit Condition S3.
2. Make appropriate revisions to the SWPPP to include additional *Treatment BMPs* with the goal of achieving the applicable *benchmark* value(s) in future discharges. Revisions shall include additional operational and/or structural source control BMPs if necessary for proper performance and maintenance of *Treatment BMPs*.

A *Qualified Industrial Stormwater Professional* shall review the revised SWPPP, sign the SWPPP Certification Form, and certify that it is reasonably expected to meet the ISGP benchmarks upon implementation. Upon written request Ecology may, one time during the permit cycle, waive this requirement on a case-by-case basis if a Permittee demonstrates to Ecology's satisfaction that the proposed Level 3 treatment BMPs are reasonably expected to meet ISGP benchmarks upon implementation.

3. Before installing treatment BMPs that require the site-specific design or sizing of structures, equipment, or processes to collect, convey, treat, reclaim, or dispose of industrial stormwater; the Permittee shall submit an engineering report to Ecology for review.
 - a. The engineering report must include:
 - i. Brief summary of the treatment alternatives considered and why the proposed option was selected. Include cost estimates of ongoing operation and maintenance, including disposal of any spent media;
 - ii. The basic design data, including characterization of stormwater influent, and sizing calculations of the treatment units;
 - iii. A description of the treatment process and operation, including a flow diagram;
 - iv. The amount and kind of chemicals used in the treatment process, if any. Note: Use of stormwater treatment chemicals requires submittal of Request for Chemical Treatment Form;
 - v. Results to be expected from the treatment process including the predicted stormwater discharge characteristics;
 - vi. A statement, expressing sound engineering justification through the use of pilot plant data, results from similar installations, and/or scientific evidence that the proposed treatment is reasonably expected to meet the permit benchmarks; and
 - vii. Certification by a licensed professional engineer.
 - b. The engineering report shall be submitted no later than the May 15th prior to the Level 3 deadline, unless an alternate due date is specified in an order.
 - c. An Operation and Maintenance Manual (O&M Manual) shall be submitted to Ecology no later than 30 days after construction/installation is complete; unless an alternate due date is specified in an order.

4. Summarize the Level 3 Corrective Actions (planned or taken) in the Annual Report (Condition S9.B). Include information on how monitoring, assessment or evaluation information was (or will be) used to determine whether existing treatment BMPs will be modified/enhanced, or if new/additional treatment BMPs will be installed.
5. **Level 3 Deadline:** The Permittee shall sign/certify and fully implement the revised SWPPP according to Permit Condition S3 and the applicable *Stormwater Management Manual* as soon as possible, but no later than September 30th the following year.
 - a. If installation of necessary *Treatment BMPs* is not feasible by the Level 3 Deadline; *Ecology* may approve additional time by approving a *Modification of Permit Coverage*.
 - b. If installation of *Treatment BMPs* is not feasible or not necessary to prevent discharges that may cause or contribute to violation of a water quality standard, *Ecology* may waive the requirement for *Treatment BMPs* by approving a *Modification of Permit Coverage*.
 - c. To request a time extension or waiver, a Permittee shall submit a detailed explanation of why it is making the request (technical basis), and a Modification of Coverage form to *Ecology* in accordance with Condition S2.B, by May 15th prior to the Level 3 Deadline. *Ecology* will approve or deny the request within 60 days of receipt of a complete *Modification of Coverage* request.
 - d. While a time extension is in effect, benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 Corrective Actions.
 - e. For the year following the calendar year the Permittee triggered a Level 3 corrective action, benchmark exceedances (for the same parameter) do not count towards additional Level 2 or 3 Corrective Actions.

S9. REPORTING AND RECORDKEEPING

A. Discharge Monitoring Reports

1. The Permittee shall submit sampling data obtained during each reporting period on a Discharge Monitoring Report (DMR) or a Solids Monitoring Form (SMR)⁸ form provided, or otherwise approved, by *Ecology*.
2. Upon permit coverage, the Permittee shall ensure that DMRs are submitted to *Ecology* by the DMR Due Dates below:

Table 9: Reporting Dates and DMR Due Dates

Reporting Period	Months	DMR Due Date
1 st	January-March	May 15
2 nd	April-June	August 15
3 rd	July-Sept	November 15
4 th	October-December	February 15

⁸ SMR required if Condition S6.C.2 applies.

S9.A.3

3. DMRs and SMRs shall be submitted electronically using *Ecology's* Water Quality Permitting Portal – Discharge Monitoring Report (DMR) application, unless a waiver from electronic reporting has been granted (e.g., if a Permittee does not have broadband internet access). SMR forms, identified as a single sample DMR type, are included with the quarterly DMR forms on the Portal. If a waiver has been granted, reports must be postmarked or delivered to the following address by the due date:

Department of Ecology
Water Quality Program – Industrial Stormwater
PO Box 47696
Olympia, WA 98504-7696

4. The Permittee shall submit a DMR each reporting period, whether or not the *facility* has discharged *stormwater* from the site. For Permittees that receive permit coverage after January 2, 2015, the first reporting period is the first full quarter following the effective date of permit coverage.
 - a. If no *stormwater* sample was obtained from the site during a given reporting period, the Permittee shall submit the DMR form indicating “no sample obtained”, or “no discharge during the quarter”, as applicable.
 - b. If a Permittee has suspended sampling for a parameter due to consistent attainment, the Permittee shall submit a DMR and indicate that it has achieved Consistent Attainment for that parameter(s).
5. The Permittee must use the Water Quality Permitting Portal – Permit Submittals application (unless otherwise specified in the permit) to submit all other written permit-required reports by the date specified in the permit unless a waiver has been granted under S9.A. If a waiver has been granted, DMRs must be postmarked or delivered to the address listed in S9.A.3 by the due date.

B. Annual Reports

1. The Permittee shall submit a complete and accurate Annual Report to the Department of *Ecology* no later than May 15th of each year using *Ecology's* Water Quality Permitting Portal – Permit Submittals application, unless a waiver from electronic reporting has been granted according to S9.A.3. Annual Reports are not required if the Permittee didn't have permit coverage during the previous calendar year.
2. The annual report shall include corrective action documentation as required in S8.B-D. If corrective action is not yet completed at the time of submission of this annual report, the Permittee must describe the status of any outstanding corrective action(s).
3. Permittees shall include the following information with each annual report. The Permittee shall:
 - a. Identify the condition triggering the need for corrective action review.
 - b. Describe the problem(s) and identify the dates they were discovered.
 - c. Summarize any Level 1, 2 or 3 corrective actions completed during the previous calendar year and include the dates it completed the corrective actions.

- d. Describe the status of any Level 2 or 3 corrective actions triggered during the previous calendar year, and identify the date it expects to complete corrective actions.
 - e. Primary airport Permittees with at least 1,000 annual jet departures shall include a certification statement in each annual report that it does not use *airfield deicing* products that contain urea. Alternatively, Permittees shall meet the numeric effluent limit for ammonia in Condition S5.C. [Table 5](#).
4. Permittees shall retain a copy of all annual reports onsite for *Ecology* review.

C. Records Retention

1. The Permittee shall retain the following documents onsite for a minimum of five years:
 - a. A copy of this permit.
 - b. A copy of the permit coverage letter.
 - c. Records of all sampling information specified in Condition S4.B.3.
 - d. Inspection reports including documentation specified in Condition S7.
 - e. Any other documentation of compliance with permit requirements.
 - f. All equipment calibration records.
 - g. All BMP maintenance records.
 - h. All original recordings for continuous sampling instrumentation.
 - i. Copies of all laboratory reports as described in Condition S3.B.4.
 - j. Copies of all reports required by this permit.
 - k. Records of all data used to complete the *application* for this permit.
2. The Permittee shall extend the period of records retention during the course of any unresolved litigation regarding the *discharge of pollutants* by the Permittee, or when requested by *Ecology*.
3. The Permittee shall make all plans, documents and records required by this permit immediately available to *Ecology* or the local jurisdiction upon request; or within 14 days of a written request from *Ecology*.

D. Additional Sampling by the Permittee

If the Permittee samples any *pollutant* at a designated sampling point more frequently than required by this permit, then the Permittee shall include the results in the calculation and reporting of the data submitted in the Permittee's DMR.

If Permittees collect more than one sample during a 24-hour period, they must first calculate the *daily average* of the individual grab sample results collected during that 24-hour period; then use the *daily average* to calculate a quarterly average.

E. Reporting Permit Violations

1. In the event the Permittee is unable to comply with any of the terms and conditions of this permit which may endanger human health or the environment, or exceed any numeric effluent limitation in the permit, the Permittee shall, upon becoming aware of the circumstances:
 - a. Immediately take action to minimize potential *pollution* or otherwise stop the noncompliance and correct the problem.
 - b. Immediately notify the appropriate *Ecology* regional office of the failure to comply:
 - Central Region at (509) 575-2490 for Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, or Yakima County.
 - Eastern Region at (509) 329-3400 for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, or Whitman County.
 - Northwest Region at (425) 649-7000 for Island, King, Kitsap, San Juan, Skagit, Snohomish, or Whatcom County.
 - Southwest Region at (360) 407-6300 for Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, or Wahkiakum County.
 - c. Submit a detailed written report to *Ecology* within 5 days of the time the Permittee becomes aware of the circumstances unless *Ecology* requests an earlier submission. The report shall be submitted using *Ecology's* Water Quality Permitting Portal – Permit Submittals application, unless a waiver from electronic reporting has been granted according to S9.A.3. The Permittee's report shall contain:
 - i. A description of the noncompliance, including exact dates and times.
 - ii. Whether the noncompliance has been corrected and, if not, when the noncompliance will be corrected.
 - iii. The steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - d. Upon request of the Permittee, Ecology may waive the requirement for a written report on a case-by-case basis, if the immediate notification (S9.E.1.b) is received by Ecology within 24 hours.
2. Compliance with the requirements of this section does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

F. Public Access to SWPPP

The Permittee shall provide access to, or a copy of, the SWPPP to the public when requested in writing. Upon receiving a written request from the public for the SWPPP, the Permittee shall:

1. Provide a copy of the SWPPP to the requestor within 14 days of receipt of the written request; or
2. Notify the requestor within ten days of receipt of the written request of the location and times within normal business hours when the requestor may view the SWPPP, and provide access to the SWPPP within 14 days of receipt of the written request; or
3. Provide a copy of the plans and records to *Ecology*, where the requestor may view the records, within 14 days of a request; or may arrange with the requestor for an alternative, mutually agreed upon location for viewing and/or copying of the plans and records. If access to the plans and records is provided at a location other than an *Ecology* office, the Permittee will provide reasonable access to copying services for which it may charge a reasonable fee.

S10. COMPLIANCE WITH STANDARDS

- A. Discharges shall not cause or contribute to a violation of *Surface Water Quality Standards* (Chapter 173-201A WAC), *Ground Water Quality Standards* (Chapter 173-200 WAC), *Sediment Management Standards* (Chapter 173-204 WAC), and human health-based criteria in the National Toxics Rule (*40 CFR 131.36*). Discharges that are not in compliance with these standards are prohibited.
- B. *Ecology* will presume compliance with *water quality standards*, unless *discharge* monitoring data or other site specific information demonstrates that a discharge causes or contributes to violation of *water quality standards*, when the Permittee is:
 1. In full compliance with all permit conditions, including planning, sampling, monitoring, reporting, and recordkeeping conditions.
 2. Fully implementing storm water *best management practices* contained in storm water technical manuals approved by the department, or practices that are *demonstrably equivalent* to practices contained in storm water technical manuals approved by *Ecology*, including the proper selection, implementation, and maintenance of all applicable and appropriate *best management practices* for on-site *pollution* control.
- C. Prior to the *discharge* of *stormwater* and non-stormwater to *waters of the state*, the Permittee shall apply all known and reasonable methods of prevention, control, and treatment (*AKART*). To comply with this condition, the Permittee shall prepare and implement an adequate SWPPP, with all applicable and appropriate BMPs, including the BMPs necessary to meet the standards identified in Condition S10.A, and shall install and maintain the BMPs in accordance with the SWPPP, applicable SWMMs, and the terms and conditions of this permit.

S11.A

S11. PERMIT FEES

- A. The Permittee shall pay permit fees assessed by *Ecology* and established in Chapter 173-224 WAC.
- B. *Ecology* will continue to assess permit fees until it terminates a permit in accordance with Special Condition S13 or revoked in accordance with General Condition G5.

S12. SOLID AND LIQUID WASTE MANAGEMENT

The Permittee shall not allow solid waste material or *leachate* to cause violations of the State Surface *Water Quality Standards* (Chapter 173-201A WAC), the *Ground Water Quality Standards* (Chapter 173-200 WAC) or the Sediment Management Standards (Chapter 173-204 WAC).

S13. NOTICE OF TERMINATION (NOT)

A. Conditions for a NOT

Ecology may approve a *Notice of Termination* (NOT) request when the Permittee meets one or more of the following conditions:

1. All permitted *stormwater* discharges associated with *industrial activity* that are authorized by this permit cease because the *industrial activity* has ceased, and no *significant materials* or industrial *pollutants* remain exposed to *stormwater*.
2. The party that is responsible for permit coverage (signatory to *application*) sells or otherwise legally transfers responsibility for the *industrial activity*.
3. All *stormwater* discharges associated with *industrial activity* are prevented because the *stormwater* is redirected to a *sanitary sewer*, or discharged to ground (e.g., infiltration).

B. Procedure for Obtaining Termination

1. The Permittee shall apply for a NOT on a form specified by *Ecology* (NOT Form).
2. The Permittee seeking permit coverage termination shall sign the NOT in accordance with Condition G2. of this permit.
3. The Permittee shall submit the completed NOT form to *Ecology* at the address in Condition S9.A.5.

GENERAL CONDITIONS

G1. DISCHARGE VIOLATIONS

All discharges and activities authorized by this *general permit* shall be consistent with the terms and conditions of this *general permit*. Any *discharge* of any *pollutant* more frequently than, or at a level in excess of that identified and authorized by the *general permit*, shall constitute a violation of the terms and conditions of this permit.

G2. SIGNATORY REQUIREMENTS

- A. All permit *applications* shall be signed:
1. In the case of corporations, by a *responsible corporate officer*.
 2. In the case of a partnership, by a general partner of a partnership.
 3. In the case of sole proprietorship, by the proprietor.
 4. In the case of a municipal, state, or other public *facility*, by either a principal executive officer or ranking elected official.
- B. All reports required by this permit and other information requested by *Ecology* shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
1. The authorization is made in writing by a person described above and submitted to the *Ecology*.
 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated *facility*, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.
- C. Changes to authorization. If an authorization under paragraph G2.B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the *facility*, a new authorization satisfying the requirements of paragraph G2.B.2 above shall be submitted to *Ecology* prior to, or together with, any reports, information, or *applications* to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:
- “I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that *qualified personnel* properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

G3. RIGHT OF INSPECTION AND ENTRY

The Permittee shall allow an authorized representative of *Ecology*, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a *discharge* is located or where any records shall be kept under the terms and conditions of this permit.
- B. To have access to and copy, at reasonable times and at reasonable cost, any records required to be kept under the terms and conditions of this permit.
- C. To inspect, at reasonable times, any facilities, equipment (including sampling and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor, at reasonable times, any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the *Clean Water Act*.

G4. GENERAL PERMIT MODIFICATION AND REVOCATION

This permit may be modified, revoked and reissued, or terminated in accordance with the provisions of Chapter 173-226 WAC. Grounds for modification, revocation and reissuance, or termination include, but are not limited to, the following:

- A. When a change which occurs in the technology or practices for control or abatement of *pollutants* applicable to the category of *dischargers* covered under this permit.
- B. When effluent limitation guidelines or standards are promulgated pursuant to the CWA or Chapter 90.48 RCW, for the category of *dischargers* covered under this permit.
- C. When a water quality management plan containing requirements applicable to the category of *dischargers* covered under this permit is approved.
- D. When information is obtained which indicates that cumulative effects on the environment from *dischargers* covered under this permit are unacceptable.

G5. REVOCATION OF COVERAGE UNDER THE PERMIT

- A. Pursuant with Chapter 43.21B RCW and Chapter 173-226 WAC, *Ecology* may terminate coverage for any *discharger* under this permit for cause. Cases where coverage may be terminated include, but are not limited to, the following:
 - 1. Violation of any term or condition of this permit.
 - 2. Obtaining coverage under this permit by misrepresentation or failure to disclose fully all relevant facts.
 - 3. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
 - 4. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.

G5.A.5

5. A determination that the permitted activity endangers human health or the environment, or contributes to *water quality standards* violations.
 6. Nonpayment of permit fees or penalties assessed pursuant to RCW 90.48.465 and Chapter 173-224 WAC.
 7. Failure of the Permittee to satisfy the public notice requirements of WAC 173-226-130(5), when applicable.
- B.** *Ecology* may require any *discharger* under this permit to apply for and obtain coverage under an individual permit or another more specific *general permit*.
- C.** Permittees who have their coverage revoked for cause according to WAC 173-226-240 may request temporary coverage under this permit during the time an individual permit is being developed, provided the request is made within 90 days from the time of revocation and is submitted along with a complete individual permit *application* form.

G6. REPORTING A CAUSE FOR MODIFICATION

The Permittee shall submit a new *application*, or a supplement to the previous *application*, whenever a material change to the *industrial activity* or in the quantity or type of *discharge* is anticipated which is not specifically authorized by this permit. This *application* shall be submitted at least 60 days prior to any proposed changes. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not relieve the Permittee of the duty to comply with the existing permit until it is modified or reissued.

G7. COMPLIANCE WITH OTHER LAWS AND STATUTES

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G8. DUTY TO REAPPLY

The Permittee shall apply for permit renewal at least 180 days prior to the expiration date of this permit.

G9. REMOVED SUBSTANCES

Collected screenings, grit, solids, sludges, filter backwash, or other *pollutants* removed in the course of treatment or control of *stormwater* shall not be resuspended or reintroduced to the final effluent stream for *discharge* to state waters.

G10. DUTY TO PROVIDE INFORMATION

The Permittee shall submit to *Ecology*, within a reasonable time, all information which *Ecology* may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The

G10

Permittee shall also submit to *Ecology*, upon request, copies of records required to be kept by this permit [40 CFR 122.41(h)].

G11. OTHER REQUIREMENTS OF 40 CFR

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

G12. ADDITIONAL SAMPLING

Ecology may establish specific sampling requirements in addition to those contained in this permit by administrative order or permit modification.

G13. PENALTIES FOR VIOLATING PERMIT CONDITIONS

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to \$10,000 and costs of prosecution, or by imprisonment at the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of this permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to \$10,000 for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

G14. UPSET

Definition – "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2) the permitted *facility* was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in condition S9.E; and 4) the Permittee complied with any remedial measures required under this permit.

G14

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

G15.PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

G16.DUTY TO COMPLY

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the *Clean Water Act* and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

G17.TOXIC POLLUTANTS

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the *Clean Water Act* for toxic *pollutants* within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

G18.PENALTIES FOR TAMPERING

The *Clean Water Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate any sampling device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than \$20,000 per day of violation, or imprisonment of not more than four years, or both.

G19.REPORTING PLANNED CHANGES

The Permittee shall, as soon as possible, give notice to *Ecology* of planned physical alterations, modifications or additions to the permitted *industrial activity*, which will result in:

- A. The permitted *facility* being determined to be a new source pursuant to *40 CFR* 122.29(b).
- B. A *significant process change*, as defined in the glossary of this permit.
- C. A change in the location of *industrial activity* that affects the Permittee's sampling requirements in Conditions S3, S4, S5, and S6.

Following such notice, permit coverage may be modified, or revoked and reissued pursuant to *40 CFR* 122.62(a) to specify and limit any *pollutants* not previously limited. Until such modification is effective, any new or increased *discharge* in excess of permit limits or not specifically authorized by this permit constitutes a violation.

G20.REPORTING OTHER INFORMATION

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit *application*, or submitted incorrect information in a permit *application* or in any report to *Ecology*, it shall promptly submit such facts or information.

G21.REPORTING ANTICIPATED NON-COMPLIANCE

The Permittee shall give advance notice to *Ecology* by submission of a new *application*, or supplement to the existing *application*, at least 45 days prior to commencement of such discharges, of any *facility* expansions, production increases, or other planned changes, such as process modifications, in the permitted *facility* or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by *Ecology*.

G22.REQUESTS TO BE EXCLUDED FROM COVERAGE UNDER THE PERMIT

- A. Any *discharger* authorized by this permit may request to be excluded from coverage under the *general permit* by applying for an individual permit.
- B. The *discharger* shall submit to *Ecology* an application as described in WAC 173-220-040 or WAC 173-216-070, whichever is applicable, with reasons supporting the request. These reasons shall fully document how an individual permit will apply to the applicant in a way that the general permit cannot.
- C. *Ecology* may make specific requests for information to support the request. *Ecology* shall either issue an individual permit or deny the request with a statement explaining the reason for the denial.
- D. When an individual permit is issued to a *discharger* otherwise subject to the industrial *stormwater general permit*, the applicability of the industrial *stormwater general permit* to that Permittee is automatically terminated on the effective date of the individual permit.

G23.APPEALS

- A. The terms and conditions of this *general permit*, as they apply to the appropriate class of *dischargers*, are subject to appeal by any person within 30 days of issuance of this *general permit*, in accordance with Chapter 43.21B RCW, and Chapter 173-226 WAC.
- B. The terms and conditions of this *general permit*, as they apply to an individual *discharger*, are appealable in accordance with Chapter 43.21B RCW within 30 days of the effective date of coverage of that *discharger*. Consideration of an appeal of *general permit* coverage of an individual *discharger* is limited to the *general permit's* applicability or nonapplicability to that individual *discharger*.

- C. The appeal of *general permit* coverage of an individual *discharger* does not affect any other *dischargers* covered under this *general permit*. If the terms and conditions of this *general permit* are found to be inapplicable to any individual *discharger(s)*, the matter shall be remanded to *Ecology* for consideration of issuance of an individual permit or permits.

G24.SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or *application* of any provision of this permit to any circumstance, is held invalid, the *application* of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

G25.BYPASS PROHIBITED

Bypass, which is the intentional diversion of waste streams from any portion of a treatment *facility*, is prohibited, and *Ecology* may take enforcement action against a Permittee for *bypass* unless one of the following circumstances (A, B, or C) is applicable.

A. *Bypass* for Essential Maintenance without the Potential to Cause Violation of Permit Limits or Conditions

Bypass is authorized if it is for essential maintenance and does not have the potential to cause violations of limitations or other conditions of this permit, or adversely impact public health as determined by *Ecology* prior to the *bypass*. The Permittee must submit prior notice, if possible, at least ten days before the date of the *bypass*.

B. *Bypass* Which is Unavoidable, Unanticipated, and Results in Noncompliance of this Permit

This *bypass* is permitted only if:

1. *Bypass* is unavoidable to prevent loss of life, personal injury, or *severe property damage*. “*Severe property damage*” means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a *bypass*.
2. There are no feasible alternatives to the *bypass*, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment downtime (but not if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a *bypass* which occurred during normal periods of equipment downtime or preventative maintenance), or transport of untreated wastes to another treatment *facility*.
3. *Ecology* is properly notified of the *bypass* as required in condition S9E of this permit.

C. *Bypass* which is Anticipated and has the Potential to Result in Noncompliance of this Permit

The Permittee must notify *Ecology* at least thirty days before the planned date of *bypass*. The notice must contain (1) a description of the *bypass* and its cause; (2) an analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing; (3) a cost-effectiveness analysis of alternatives including comparative resource damage assessment; (4) the minimum and maximum duration of *bypass* under each alternative; (5) a recommendation as to the preferred alternative for conducting the *bypass*; (6) the projected date of *bypass* initiation; (7) a statement of compliance with SEPA; (8) a request for modification of *water quality standards* as provided for in WAC 173-201A-410, if an exceedance of any water quality standard is anticipated; and (9) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the *bypass*.

For probable construction bypasses, the need to *bypass* is to be identified as early in the planning process as possible. The analysis required above must be considered during preparation of the engineering report or facilities plan and plans and specifications and must be included to the extent practical. In cases where the probable need to *bypass* is determined early, continued analysis is necessary up to and including the construction period in an effort to minimize or eliminate the *bypass*.

Ecology will consider the following prior to issuing an administrative order for this type *bypass*:

1. If the *bypass* is necessary to perform construction or maintenance-related activities essential to meet the requirements of this permit.
2. If there are feasible alternatives to *bypass*, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment down time, or transport of untreated wastes to another treatment *facility*.
3. If the *bypass* is planned and scheduled to minimize adverse effects on the public and the environment.

After consideration of the above and the adverse effects of the proposed *bypass* and any other relevant factors, *Ecology* will approve or deny the request. The public must be notified and given an opportunity to comment on *bypass* incidents of significant duration, to the extent feasible. Approval of a request to *bypass* will be by administrative order issued by *Ecology* under RCW 90.48.120.

APPENDIX 1 - ACRONYMS

AKART	All Known, Available and Reasonable methods of prevention, control and Treatment
BMP	Best Management Practice
CAS	Chemical Abstract Service
CERCLA	Comprehensive Environmental Response Compensation & Liability Act
CFR	Code of Federal Regulations
CWA	Clean Water Act
CWT	Centralized Waste Treatment
EPA	Environmental Protection Agency
ESC	Erosion and Sediment Control
FAA	Federal Aviation Administration
FWPCA	Federal Water Pollution Control Act
NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
RCRA	Resource Conservation and Recovery Act
RCW	Revised Code of Washington
SARA	Superfund Amendment and Reauthorization Act
SEPA	State Environmental Policy Act
SIC	Standard Industrial Classification
SMCRA	Surface Mining Control and Reclamation Act
SWMM	Stormwater Management Manual
SWPPP	Stormwater Pollution Prevention Plan
TMDL	Total Maximum Daily Load
USC	United States Code
USEPA	United States Environmental Protection Agency
WAC	Washington Administrative Code
WQ	Water Quality

APPENDIX 2 - DEFINITIONS

40 CFR means Title 40 of the Code of Federal Regulations, which is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

303(d)-listed water body means waterbodies as listed as Category 5 on Washington State's Water Quality Assessment.

Air Emission means a release of air contaminants into the ambient air.

Airfield Pavement means all paved surfaces on the *airside* of an airport.

Airside means the part of an airport directly involved in the arrival and departure of aircraft, including runways, taxiways, aprons, and ramps.

AKART is an acronym for “all known, available, and reasonable methods of prevention, control, and treatment.” AKART represents the most current methodology that can be reasonably required for preventing, controlling, or abating the *pollutants* and controlling *pollution* associated with a discharge.

Annual Non-propeller Aircraft Departures means the average number of commercial turbine-engine aircraft that are propelled by jet, i.e., turbojet or turbofan, that take off from an airport on an annual basis, as tabulated by the Federal Aviation Administration (FAA).

Applicable TMDL means a *TMDL* which has been completed either before the issuance date of this permit or the date the Permittee first obtains coverage under this permit, whichever is later.

Application means a request for coverage under this *general permit* pursuant to WAC 173-226-200. Also called a *Notice of Intent (NOI)*.

Average means arithmetic mean, which is equal to the sum of the measurements divided by the number of measurements.

Best Management Practices (BMPs - general definition) means schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural and/or managerial practices to prevent or reduce the *pollution of waters of the state*. BMPs include treatment systems, operating procedures, and practices to control: facility site *runoff*, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. In this permit BMPs are further categorized as operational source control, structural source control, *erosion* and *sediment* control, and *treatment BMPs*.

Benchmark means a *pollutant* concentration used as a permit threshold, below which a pollutant is considered unlikely to cause a water quality violation, and above which it may. When pollutant concentrations exceed benchmarks, corrective action requirements take effect. Benchmark values are not *water quality standards* and are not numeric effluent limitations; they are indicator values.

Bypass means the intentional diversion of waste streams from any portion of a treatment *facility*.

Clean Water Act (CWA) means the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 97-117; USC 1251 et seq.

Combined Sewer means a sewer which has been designed to serve as a *sanitary sewer* and a *storm sewer*, and into which inflow is allowed by local ordinance.

Construction Activity means clearing, grading, excavation and any other activity which disturbs the surface of the land. Such activities may include road building, construction of residential houses, office buildings, industrial buildings, and demolition activity.

Control Plan means a *total maximum daily load (TMDL)* determination, restrictions for the protection of state or federal threatened or endangered species, a *ground water* management plan, or other limitations that regulate or set limits on discharges to a specific waterbody or *ground water* recharge area.

Daily Average means the average measurement of the pollutant throughout a period of 24 consecutive hours starting at 12:01 A.M. and ending at the following 12:00 P.M. (midnight).

Deicing means procedures and practices to remove or prevent any accumulation of snow or ice on: 1) an aircraft; or 2) *airfield* pavement.

Demonstrably Equivalent means that the technical basis for the selection of all storm water *best management practices* are documented within a storm water *pollution* prevention plan. The storm water *pollution* prevention plan must document: 1) The method and reasons for choosing the storm water *best management practices* selected; 2) The *pollutant* removal performance expected from the practices selected; 3) The technical basis supporting the performance claims for the practices selected, including any available existing data concerning field performance of the practices selected; 4) An assessment of how the selected practices will comply with state *water quality standards*; and 5) An assessment of how the selected practices will satisfy both applicable federal technology-based treatment requirements and state requirements to use all known, available, and reasonable methods of prevention, control, and treatment.

Detention means the temporary storage of *stormwater* to improve quality and/or to reduce the mass flow rate of discharge.

Discharge [of a pollutant] means any addition of any *pollutant* or combination of pollutants to waters of the United States from any point source. This definition includes additions of pollutants into waters of the United States from: surface *runoff* which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, *municipality*, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

Discharge point means the location where a discharge leaves the Permittee's facility. *Discharge point* also includes the location where a discharge enters the ground on-site (e.g., infiltration BMP).

Discharger means an owner or operator of any *facility* or activity subject to regulation under Chapter 90.48 RCW or the Federal *Clean Water Act*.

Domestic Wastewater means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places, together with such *ground water* infiltration or surface waters as may be present.

Ecology means the Washington State Department of *Ecology*.

EPA means the United States Environmental Protection Agency.

Equivalent BMPs means operational, source control, treatment, or innovative BMPs which result in equal or better quality of *stormwater discharge* to surface water or to *ground water* than BMPs selected from the SWMM.

Erosion means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep.

Erosion and Sediment Control BMPs means BMPs that are intended to prevent *erosion* and sedimentation, such as preserving natural vegetation, seeding, mulching and matting, plastic covering, filter fences, and *sediment* traps and ponds.

Existing Facility means a *facility* that was in operation prior to the effective date of this permit. It also includes any *facility* that is not categorically included for coverage but is in operation when identified by *Ecology* as a *significant contributor of pollutants*.

Facility means any source (including land or appurtenances thereto) that is subject to regulation under this permit. See Special Condition S1.

First fall storm event means the first time on or after October 1st of each year that precipitation occurs and results in a *stormwater discharge* from a *facility*. This storm event tends to wash off and discharge pollutants that accumulate during the preceding dry months.

General Permit means a permit which covers multiple *dischargers* of a point source category within a designated geographical area, in lieu of individual permits being issued to each *discharger*.

Ground Water means water in a saturated zone or stratum beneath the land surface or a surface waterbody.

Illicit Discharge means any *discharge* that is not composed entirely of *stormwater* except (1) discharges authorized pursuant to a separate NPDES permit, or (2) conditionally authorized non-*stormwater* discharges identified in Condition S5.D.

Inactive Facility means a *facility* that no longer engages in business, production, providing services, or any auxiliary operation.

Industrial Activity means (1) the 10 categories of industrial activities identified in *40 CFR* 122.26(b)(14)(i-ix and xi), (2) any *facility* conducting any activities described in [Table 1](#), or (3) any *facility* identified by *Ecology* as a *significant contributor of pollutants*.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a *land application site*, surface impoundment, injection well, or waste pile.

Land Application Site means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

Leachate means water or other liquid that has percolated through raw material, product or waste and contains substances in solution or suspension as a result of the contact with these materials.

Local Government means any county, city, or town having its own government for local affairs.

Material Handling means storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product, or waste product.

Municipality means a political unit such as a city, town, or county; incorporated for local self-government.

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking, and reissuing, terminating, and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal *Clean Water Act*, for the *discharge of pollutants to surface waters of the state* from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington Department of *Ecology*.

New Development means land disturbing activities, including Class IV -general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

New Discharge(r) means a *facility* from which there is a discharge, that did not commence the *discharge* at a particular site prior to August 13, 1979, which is not a new source, and which has never received a finally effective NPDES permit for discharges at that site. See *40 CFR* 122.2.

New Facility means a *facility* that begins activities that result in a *discharge* or a potential discharge to *waters of the state* on or after the effective date of this *general permit*.

Noncontact Cooling Water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Notice of Termination (NOT) means a request for termination of coverage under this *general permit* as specified by Special Condition S13 of this permit.

Operational Source Control BMPs means schedule of activities, prohibition of practices, maintenance procedures, employee training, good housekeeping, and other managerial practices to prevent or reduce the *pollution* of *waters of the state*. Not included are BMPs that require construction of *pollution* control devices.

Outfall means the point where a discharge from a facility enters a receiving waterbody or receiving waters.

Pollutant means the *discharge* of any of the following to *waters of the state*: dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, domestic sewage sludge (biosolids), munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste. This term does not include sewage from vessels within the meaning of section 312 of the FWPCA nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the FWPCA.

Pollution means contamination or other alteration of the physical, chemical, or biological properties of *waters of the state*; including change in temperature, taste, color, *turbidity*, or odor of the waters; or such *discharge* of any liquid, gaseous, solid, radioactive or other substance into any *waters of the state* as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare; or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish, or other aquatic life.

Process Wastewater means any non-stormwater which, during manufacturing or processing, comes into direct contact or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. If stormwater commingles with process wastewater, the commingled water is considered process wastewater.

Puget Sound Sediment Cleanup Site means: Category 4B (Sediment) portions of Budd Inlet (Inner), Commencement Bay (Inner), Commencement Bay (Outer), Dalco Passage and East Passage, Duwamish Waterway (including East and West Waterway), Eagle Harbor, Elliot Bay, Hood Canal (North), Liberty Bay, Rosario Strait, Sinclair Inlet, and Thea Foss Waterway; Category 5 (Sediment) portions of the Duwamish Waterway (including East and West Waterway), and Port Gardner and Inner Everett Harbor; and Port Angeles Harbor sediment cleanup area, as mapped on Ecology's ISGP website. All references to Category 4B and 5 pertain to the 2012 EPA-approved Water Quality Assessment.

Qualified Industrial Stormwater Professional means a licensed professional engineer, geologist, hydrogeologist; Certified Professional in Stormwater Quality, Certified Professional in Erosion and Sediment Control; or qualified environmental consultant with education and experience in stormwater management and licensed to do business in the State of Washington.

Qualified Personnel means those who possess the knowledge and skills to assess conditions and activities that could impact *stormwater* quality at the *facility*, and evaluate the effectiveness of *best management practices* required by this permit.

Quantitation Level (QL) also known as Minimum Level of Quantitation (ML) means the lowest level at which the entire analytical system must give a recognizable signal and acceptable calibration point for the analyte. It is equivalent to the concentration of the lowest calibration standard, assuming that all method-specified sample weights, volumes, and cleanup procedures have been employed.

Reasonable Potential means the likely probability for *pollutants* in the *discharge* to exceed the applicable water quality criteria in the receiving waterbody.

Redevelopment means on a site that is already substantially developed (i.e., has 35% or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.

Regular Business Hours means those time frames when the *facility* is engaged in its primary production process, but does not include additional shifts or weekends when partial staffing is at the site primarily for maintenance and incidental production activities. *Regular business hours* do not include periods of time that the *facility* is inactive and *unstaffed*.

Representative [sample] means a sample of the *discharge* that accurately characterizes *stormwater runoff* generated in the designated drainage area of the *facility*.

Responsible Corporate Officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures (40 CFR 122.22).

Runoff means that portion of rainfall or snowmelt water not absorbed into the ground that becomes surface flow.

Sanitary Sewer means a sewer which is designed to convey *domestic wastewater*.

Sediment means the fragmented material that originates from the weathering and *erosion* of rocks, unconsolidated deposits, or unpaved yards, and is transported by, suspended in, or deposited by water.

Severe Property Damage means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a *bypass*. *Severe property damage* does not mean economic loss caused by delays in production.

Significant Amount means an amount of a *pollutant* in a *discharge* that is amenable to *AKART*; or an amount of a *pollutant* that has a *reasonable potential* to cause a violation of surface or *ground water quality standards* or *sediment management standards*.

Significant Contributor of Pollutant(s) means a *facility* determined by *Ecology* to be a contributor of a *significant amount(s)* of a *pollutant(s)* to *waters of the state*.

Significant Materials includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the *facility* is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with *stormwater* discharges.

Significant Process Change means any modification of the *facility* that would result in any of the following:

1. Add different *pollutants* in a *significant amount* to the discharge.
2. Increase the *pollutants* in the *stormwater discharge* by a *significant amount*.
3. Add a new *industrial activity* (SIC) that was not previously covered.
4. Add additional impervious surface or acreage such that *stormwater* discharge would be increased by 25% or more.

Source Control BMPs means structures or operations that are intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. This permit separates source control into two types: *structural source control BMPs* and *operational source control BMPs*.

Standard Industrial Classification (SIC) is the statistical classification standard underlying all establishment-based federal economic statistics classified by industry as reported in the 1987 SIC Manual by the Office of Management and Budget.

State Environmental Policy Act (SEPA) means the Washington State Law, RCW 43.21C.020, intended to prevent or eliminate damage to the environment.

Storm Sewer means a sewer that is specifically designed to carry *stormwater*. Also called a storm drain.

Stormwater means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a *stormwater drainage system* into a defined surface waterbody, or a constructed infiltration *facility*.

Stormwater Discharge Associated with Industrial Activity means the *discharge* from any conveyance that is used for collecting and conveying *stormwater* and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant (see *40 CFR 122(b)(14)*).

Stormwater Drainage System means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate or divert *stormwater*.

Stormwater Management Manual (SWMM) or Manual means the technical manuals prepared by Ecology for *stormwater* management in western and eastern Washington.

Stormwater Pollution Prevention Plan (SWPPP) means a documented plan to implement measures to identify, prevent, and control the contamination of point source discharges of *stormwater*.

Structural Source Control BMPs means physical, structural, or mechanical devices or facilities that are intended to prevent *pollutants* from entering *stormwater*.

Substantially Identical Discharge Point means a discharge point that shares the following characteristics with another discharge point: 1) the same general industrial activities conducted in the drainage area of the *discharge point*, 2) the same *Best Management Practices* conducted in the drainage area of the discharge point, 3) the same type of exposed materials located in the drainage area of the *discharge point* that are likely to be significant contributors of *pollutants* to *stormwater discharges*, and 4) the same type of impervious surfaces in the drainage area that could affect the percolation of *stormwater runoff* into the ground (e.g., asphalt, crushed rock, grass).

Surface Waters of the State includes lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state.

Total Maximum Daily Load (TMDL) means a calculation of the maximum amount of a *pollutant* that a waterbody can receive and still meet state *water quality standards*. Percentages of the *total maximum daily load* are allocated to the various *pollutant* sources. A *TMDL* is the sum of the allowable loads of a single *pollutant* from all contributing point and nonpoint sources. The *TMDL* calculations include a "margin of safety" to ensure that the waterbody can be protected in

case there are unforeseen events or unknown sources of the *pollutant*. The calculation also accounts for reasonable variation in water quality.

Treatment BMPs means BMPs that are intended to remove *pollutants* from *stormwater*.

Turbidity means the clarity of water expressed as nephelometric *turbidity* units (NTU) and measured with a calibrated turbidimeter.

Underground Injection Control Well means a well that is used to *discharge* fluids into the subsurface. An *underground injection control well* is one of the following:

1. A bored, drilled, or driven shaft,
2. An improved sinkhole, or
3. A subsurface fluid distribution system. (WAC 173-218-030)

Unstaffed means the *facility* has no assigned staff. A site may be “*unstaffed*” even when security personnel are present, provided that *pollutant* generating activities are not included in their duties.

Vehicle means a motor-driven conveyance that transports people or freight, such as an automobile, truck, train, or airplane.

Vehicle Maintenance means the rehabilitation, mechanical repairing, painting, fueling, and/or lubricating of a motor-driven conveyance that transports people or freight, such as an automobile, truck, train, or airplane.

Wasteload Allocation (WLA) means the portion of a receiving water’s loading capacity that is allocated to one of its existing or future point sources of *pollution*. WLAs constitute a type of water quality based effluent limitation (*40 CFR 130.2(h)*).

Water Quality Standards means the Water Quality Standards for *Surface Waters of the State* of Washington, Chapter 173-201A WAC, Ground Water Quality Standards (Chapter 173-200 WAC), Sediment Management Standards (Chapter 173-204 WAC), and human health-based criteria in the National Toxics Rule (*40 CFR 131.36*).

Waters of the State includes those waters defined as "waters of the United States" in *40 CFR* Subpart 122.2 within the geographic boundaries of Washington State. State statute defines "*waters of the state*" to include lakes, rivers, ponds, streams, wetlands, inland waters, *underground waters*, salt waters and all other surface waters and water courses within the jurisdiction of the state of Washington (Chapter 90.48 RCW).

APPENDIX 3 - SWPPP CERTIFICATION FORM

The Permittee shall use this form to sign and certify that the Stormwater Pollution Prevention Plan (SWPPP) is complete, accurate and in compliance with Conditions S3 and S8 of the Industrial Stormwater General Permit.

- A SWPPP certification form needs to be completed and attached to all SWPPPs.
- Each time a Level 1, 2, or 3 Corrective Action is required, this form needs to be re-signed and re-certified by the Permittee, and attached to the SWPPP.

Is this SWPPP certification in response to a Level 1, 2 or 3 Corrective Action? Yes No

If Yes: Type of Corrective Action?: Level 1 Level 2 Level 3*

Date SWPPP update/revision completed:

Briefly describe SWPPP Update (use backside, if necessary):

***Note:** For Level 3 Corrective Actions, a *Qualified Industrial Stormwater Professional* must review the revised SWPPP, and sign and certify below, in accordance with Condition S8.D.2.:
“The Permittee has made appropriate revisions to the SWPPP to include additional Treatment BMPs with the goal of achieving the applicable benchmark value(s) in future discharges. Based on my review of the SWPPP, discharges from the facility are reasonably expected to meet the ISGP benchmarks upon implementation.”

Qualified Industrial Stormwater Professional's Printed Name

Title

Qualified Industrial Stormwater Professional's Signature

Date

“I certify under penalty of law that this SWPPP and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate information to determine compliance with the Industrial Stormwater General Permit. Based on my inquiry of the person or persons who are responsible for stormwater management at my facility, this SWPPP is, to the best of my knowledge and belief, true, accurate, and complete, and in full compliance with Permit Conditions S3 and S8, including the correct Best Management Practices from the applicable Stormwater Management Manual. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Operator's Printed Name *

Title

Operator's Signature *

Date

* Federal regulations require this document to be signed in accordance with Condition G2.

APPENDIX 4 - EXISTING DISCHARGERS TO IMPAIRED WATERS

This appendix has a link below to a website list of existing Permittees that *discharge pollutants* of concern, either directly or indirectly through a stormwater drainage system, to an *outfall* that enters 303(d)-listed (Category 5) impaired waters based on the 2012 EPA-approved water quality assessment and to *Puget Sound Sediment Cleanup Sites*.

<http://www.ecy.wa.gov/programs/wq/stormwater/industrial/permitdocs/iswgpapp4.pdf>

Appendix 4 is based upon information in Ecology's PARIS database. As such, it is subject to revision based upon new information including but not limited to: new facilities, *discharge points*, and/or *outfalls*; updates or corrections to ISGP facility locations, stormwater sample points, *discharge points*, and/or *outfalls*.

Appendix 4 is a technical assistance tool intended to support ISGP facilities with permit compliance. Appendix 4 may contain errors or omissions for various reasons, but this does not relieve ISGP facilities of applicable permit requirements. If an inconsistency exists between Appendix 4 and ISGP Condition S6, the ISGP takes precedence. Permittees aware of errors or omissions with the information contained in Appendix 4 shall contact Ecology so that an update/correction can be made. If changes or updates are made, based on new or more accurate information, *Ecology* will notify the affected Permittees directly. Such changes or updates will not become effective until 30 days after the affected *dischargers* are notified.

APPENDIX 5 - DISCHARGERS SUBJECT TO TMDL REQUIREMENTS

The list of *dischargers* identified as discharging to water bodies which have completed water quality cleanup plans or *TMDLs* and associated monitoring requirements can be viewed on *Ecology's* website at:

<http://www.ecy.wa.gov/programs/wq/stormwater/industrial/permitdocs/iswgpapp5.pdf>

The most current list can also be obtained by contacting Ecology at:

Industrial Stormwater General Permit
Washington State Department of Ecology
PO Box 47696
Olympia, WA 98504-7696

This list is based on the best information available to *Ecology*. There will be changes and updates to this list based on new, more accurate information. If changes or updates are made, *Ecology* will notify the affected Permittees directly. Such changes or updates will not become effective until 30 days after the affected *dischargers* are notified.

EXHIBIT 2

From: [Andrews, Raymond](#)
To: leormcmilian@gmail.com
Cc: [Fidis, Alexander](#); [Brown, Leah](#); [Jencius, Michele](#); [Levo, Brian](#)
Subject: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act
Date: Monday, September 14, 2020 9:35:31 AM
Attachments: [smallbusinessinfo.pdf](#)
[AAW_ViolationsList.2020.09.11.pdf](#)
[image002.png](#)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite155
Seattle, Washington 98101-3140

Enforcement & Compliance
Assurance Division

Mr. Leo McMilian
Owner
Astro Auto Wrecking LLC
37307 Enchanted Parkway South
Federal Way, Washington 98003-7614
leormcmilian@gmail.com

Re: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act and Opportunity to Confer Prior to Filing

Dear Mr. McMilian:

The U.S. Environmental Protection Agency (EPA) has documented violations of the Clean Water Act at the Astro Auto Wrecking LLC facility located at 37307 Enchanted Parkway South in Federal Way, Washington. A summary of the violations is attached.

Section 309 of the Clean Water Act, **33 U.S.C. § 1319, and 40 C.F.R. Part 19 authorize EPA to seek penalties for violations of the Clean Water Act up to \$55,800 per day for each violation.** Additionally, Section 309 of the Clean Water Act authorizes EPA to issue administrative orders requiring specific measures be taken to ensure compliance with the Clean Water Acts. The purpose of this notice is to offer you the opportunity to discuss these violations before EPA files a complaint.

Discussing the violations with EPA ensures we have all relevant information and may lead to a settlement that avoids the time and expense of litigation. If we can reach a settlement, we would resolve the violations with an administrative consent agreement and final order. Once a consent agreement and final order is signed by all parties, EPA generally issues a press release announcing the settlement.

Before responding to this notice, EPA encourages you to review several documents that may be helpful:

1. EPA's *Small Business Resources Information Sheet* (Attached) provides information on potential compliance assistance opportunities that are available to you.
2. The *Interim Clean Water Act Settlement Penalty Policy* (March 1, 1995) sets forth factors that EPA considers in determining the appropriate penalty for your violations. For more information, visit EPA's Penalty Policies and Guidance webpage at www.epa.gov/enforcement/enforcement-policy-guidance-publications.

If EPA and Astro Auto Wrecking LLC do not reach a settlement **within 90 days of this notice**, EPA will either file an administrative complaint with an administrative law judge or refer the matter to the U.S. Department of Justice to file a civil complaint in federal district court.

To reach settlement **within 90 days**, we must begin prefiling negotiations within 30 days. EPA acknowledges the impacts that the COVID-19 pandemic may have on regulated entities, and we will consider your specific circumstances in determining an appropriate timeline for settlement in this case, while still ensuring regulatory compliance as expeditiously as possible. To set up an initial meeting to discuss this matter, please contact EPA Attorney Alex Fidis at (206) 553-4710 **within 14 days** of this notice. EPA will meet with you by conference call. If we do not hear from you within 14 days, EPA will interpret that as an indication that you do not wish to engage in prefiling negotiations, in which case EPA intends to initiate formal enforcement action.

Thank you for your prompt attention to this important matter.

Sincerely,

/Raymond Andrews/

Raymond Andrews
Compliance Officer
Surface Water Enforcement Section
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, 20-C04
Seattle, WA 98101
(206) 553-4252

Attachments:
Small Business Resources Information Sheet
Summary of Violations

EXHIBIT 3

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Astro Auto Wrecking, LLC

Federal Way, Washington

Respondent.

DOCKET NO. CWA-10-2021-0097

DECLARATION OF ALEXANDER FIDIS

I, Alexander Fidis, based on my personal knowledge, state as follows:

1. I am an Assistant Regional Counsel for Region 10 of the U.S. Environmental Protection Agency. I work as an attorney in the Region 10 Office of Regional Counsel in the Water Law Branch. I have worked for the Region 10 Office of Regional Counsel since 2008.
2. In July 2020, I was assigned to assist the EPA Region 10 Enforcement and Compliance Assistance Division (ECAD) in the above-captioned enforcement matter under section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). This work includes reviewing the facts and law supporting related to the matter and providing counsel and assistance to facilitate resolution of the matter.
3. Prior to commencing an administrative enforcement action pursuant to section 319(g) of the CWA, the general practice of ECAD is to provide the respondent with a summary of the alleged violations and an opportunity to discuss the violations prior to the commencement of formal enforcement proceedings. ECAD provides this opportunity to confer for the purpose of ensuring that it has all relevant information concerning the alleged violations and to provide an opportunity to discuss settlement before the commencement of enforcement proceedings. ECAD typically provides a 90-day window

for these pre-filing and settlement discussions to take place before proceeding to formal enforcement.

4. In an email dated September 14, 2020, compliance officer Raymond Andrews notified Astro Auto Wrecking, LLC (Respondent) that ECAD had documented violations of the Washington Department of Ecology Industrial Stormwater General Permit at Respondent's facility located at 37307 Enchanted Parkway South in Federal Way, Washington. The email notification provided Respondent with a list of the alleged violations and the opportunity to confer with ECAD prior to commencement of formal enforcement proceedings. The email notice provided my contact information to arrange a time to discuss the matter.
5. On September 22, 2020, I was contacted by Respondent's employee requesting a meeting to discuss the alleged violations. A conference call was scheduled for October 29, 2020 at 9 am pacific time.
6. On October 29, 2020, at 9 am, Mr. Andrews and I joined a conference call with Mr. Leo McMilian, the owner of Respondent, and his assistant, Christina. Mr. Andrews and I introduced ourselves and explained that the purpose of the call was to present an overview of the alleged violations, the enforcement process and to provide Respondent an opportunity to ask questions and provide any additional information for our consideration.
7. During the call we explained that the violations were observed during a May 20, 2019 inspection of the Facility and were documented in an inspection report completed on July 23, 2019. A copy of this inspection report had been provided to Respondent on July 29, 2019. Mr. McMilian requested another copy of the report which we agreed to provide and sent by email immediately after the October 29, 2020 conference call. .

8. After explaining the enforcement process and summarizing the violations and the factual basis for the violations, Mr. McMilian stated that he intended to provide us with additional information concerning the violations. Mr. McMilian did not describe the information he intended to provide for our consideration, nor did he provide any additional response to the violations that we detailed during the call. At the end of the call it was agreed that Mr. McMilian would provide any additional information to us by November 13, 2020.
9. As of the date of this declaration, Respondent has not submitted any additional information for our consideration. In two emails dated December 28, 2020 and February 18, 2021, Mr. McMilian did provide written responses explaining how the violations had been or were being corrected. However, these responses consisted of unsupported statements and did not provide any explanation refuting the alleged violations or any exculpatory information or evidence concerning the alleged violations.

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Alexander Fidis, Assistant Regional Counsel
U.S. EPA, Region 10
1200 6th Avenue, Suite 155 M/S 11-C07
Seattle, WA 98101

EXHIBIT 4

INSTRUCTIONS

Section A: National Data System Coding (i.e., PCS)

Column 1: Transaction Code: Use N, C, or D for New, Change, or Delete. All inspections will be *new* unless there is an error in the data entered.

Columns 3-11: NPDES Permit No. Enter the facility's NPDES permit number - third character in permit number indicates permit type for U=unpermitted, G=general permit, etc.. (Use the Remarks columns to record the State permit number, if necessary.)

Columns 12-17: Inspection Date. Insert the date entry was made into the facility. Use the year/month/day format (e.g., 04/10/01 = October 01, 2004).

Column 18: Inspection Type*. Use one of the codes listed below to describe the type of inspection:

A Performance Audit	U IU Inspection with Pretreatment Audit	! Pretreatment Compliance (Oversight)
B Compliance Biomonitoring	X Toxics Inspection	@ Follow-up (enforcement)
C Compliance Evaluation (non-sampling)	Z Sludge - Biosolids	{ Storm Water-Construction-Sampling
D Diagnostic	# Combined Sewer Overflow-Sampling	} Storm Water-Construction-Non-Sampling
F Pretreatment (Follow-up)	\$ Combined Sewer Overflow-Non-Sampling	: Storm Water-Non-Construction-Sampling
G Pretreatment (Audit)	+ Sanitary Sewer Overflow-Sampling	~ Storm Water-Non-Construction-Non-Sampling
I Industrial User (IU) Inspection	& Sanitary Sewer Overflow-Non-Sampling	< Storm Water-MS4-Sampling
J Complaints	\ CAFO-Sampling	- Storm Water-MS4-Non-Sampling
M Multimedia	= CAFO-Non-Sampling	> Storm Water-MS4-Audit
N Spill	2 IU Sampling Inspection	
O Compliance Evaluation (Oversight)	3 IU Non-Sampling Inspection	
P Pretreatment Compliance Inspection	4 IU Toxics Inspection	
R Reconnaissance	5 IU Sampling Inspection with Pretreatment	
S Compliance Sampling	6 IU Non-Sampling Inspection with Pretreatment	
	7 IU Toxics with Pretreatment	

Column 19: Inspector Code. Use one of the codes listed below to describe the *lead agency* in the inspection.

A — State (Contractor)	O — Other Inspectors, Federal/EPA, (Specify in Remarks columns)
B — EPA (Contractor)	P — Other Inspectors, State (Specify in Remarks columns)
E — Corps of Engineers	R — EPA Regional Inspector
J — Joint EPA/State Inspectors—EPA Lead	S — State Inspector
L — Local Health Department (State)	T — Joint State/EPA Inspectors—State lead
N — NEIC Inspectors	

Column 20: Facility Type. Use one of the codes below to describe the facility.

- 1 — Municipal. Publicly Owned Treatment Works (POTWs) with 1987 Standard Industrial Code (SIC) 4952.
- 2 — Industrial. Other than municipal, agricultural, and Federal facilities.
- 3 — Agricultural. Facilities classified with 1987 SIC 0111 to 0971.
- 4 — Federal. Facilities identified as Federal by the EPA Regional Office.
- 5 — Oil & Gas. Facilities classified with 1987 SIC 1311 to 1389.

Columns 21-66: Remarks. These columns are reserved for remarks at the discretion of the Region.

Columns 67-69: Inspection Work Days. Estimate the total work effort (to the nearest 0.1 work day), up to 99.9 days, that were used to complete the inspection and submit a QA reviewed report of findings. This estimate includes the accumulative effort of all participating inspectors; any effort for laboratory analyses, testing, and remote sensing; and the billed payroll time for travel and pre and post inspection preparation. This estimate does not require detailed documentation.

Column 70: Facility Evaluation Rating. Use information gathered during the inspection (regardless of inspection type) to evaluate the quality of the facility self-monitoring program. Grade the program using a scale of 1 to 5 with a score of 5 being used for very reliable self-monitoring programs, 3 being satisfactory, and 1 being used for very unreliable programs.

Column 71: Biomonitoring Information. Enter D for static testing. Enter F for flow through testing. Enter N for no biomonitoring.

Column 72: Quality Assurance Data Inspection. Enter Q if the inspection was conducted as followup on quality assurance sample results. Enter N otherwise.

Columns 73-80: These columns are reserved for regionally defined information.

Section B: Facility Data

This section is self-explanatory except for "Other Facility Data," which may include new information not in the permit or PCS (e.g., new outfalls, names of receiving waters, new ownership, other updates to the record, SIC/NAICS Codes, Latitude/Longitude).

Section C: Areas Evaluated During Inspection

Check only those areas evaluated by marking the appropriate box. Use Section D and additional sheets as necessary. Support the findings, as necessary, in a brief narrative report. Use the headings given on the report form (e.g., Permit, Records/Reports) when discussing the areas evaluated during the inspection.

Section D: Summary of Findings/Comments

Briefly summarize the inspection findings. This summary should abstract the pertinent inspection findings, not replace the narrative report. Reference a list of attachments, such as completed checklists taken from the NPDES Compliance Inspection Manuals and pretreatment guidance documents, including effluent data when sampling has been done. Use extra sheets as necessary.

*Footnote: In addition to the inspection types listed above under column 18, a state may continue to use the following wet weather and CAFO inspection types until the state is brought into ICIS-NPDES: K: CAFO, V: SSO, Y: CSO, W: Storm Water 9: MS4. States may also use the new wet weather, CAFO and MS4 inspections types shown in column 18 of this form. The EPA regions are required to use the new wet weather, CAFO, and MS4 inspection types for inspections with an inspection date (DTIN) on or after July 1, 2005.

**NPDES
Inspection Report**

**Astro Auto Wrecking LLC
Federal Way, WA**

May 20th, 2019

Prepared by:

**Brian Levo
Environmental Protection Agency, Region 10
Enforcement & Compliance Assurance Division
Water Enforcement & Field Branch
Surface Water Enforcement Section**

Table of Contents

- I. Facility Information
- II. Inspection Information
- III. Permit Information
- IV. Inspection Chronology
- V. Background and Activity
- VI. Facility Review
- VII. Records Review
- VIII. Observed Discharge
- IX. Receiving Water
- X. Areas of Concern
- XI. Closing Conference

Attachments

- A. Site Maps
- B. Photo Log
- C. DOE 2015 Inspection Report
- D. Flash Drives Containing AAW Records
- E. DOE Letters Regarding DMR Submittals
- F. Post Inspection E-mails

(Unless otherwise noted, all details in this inspection report were obtained from conversations with Leo McMilian or from observations during the inspection.)

I. Facility Information

Facility Name: Astro Auto Wrecking LLC

SIC Codes: 5015 – Motor Vehicle Parts, Used

NAICS Codes: 423140 – Motor Vehicle Parts (Used) Merchant Wholesalers

Facility Contact(s): Leo McMilian, Owner
Office: (253) 838-2800
Cell: (206) 249-2395
E-mail: leormcmilian@gmail.com

Colene Love (Mr. McMilian’s daughter)
Cell: (206) 218-6173
E-mail: colenerlove@gmail.com

Mark, Front Office Employee

Vincent (“Vinny”), Employee

Justin Park, Attorney
Romero Park P.S. (law firm)
425-450-5000

Facility/Mailing Address: 37307 Enchanted Pkwy S
Federal Way, WA 98003

Lat/Long: + 47.2666377°/- 122.302214°

Permit Number: WAR011869

II. Inspection Information

Inspection Date/Time/ Weather: May 20th, 2019
Arrival Time: 9:20am Departure Time: 4:55pm
Weather: Overcast, some light rain

Inspectors: Brian Levo, Inspector
EPA Region 10, ECAD/WEFB/SWES
206-553-1816

Evan Dobrowski, Stormwater Inspector and Compliance Specialist
WA Department of Ecology
425-649-7276

Purpose: Determine compliance with the Washington State Department of Ecology (DOE) National Pollutant Discharge Elimination System (NPDES) Industrial Stormwater General Permit (ISGP) and the Clean Water Act.

III. Permit information

Astro Auto Wrecking LLC in Federal Way, WA, (hereafter referred to as “AAW”) is currently permitted under the ISGP (permit ID WAR011869) with effective date of 1/2/15. Prior to this permit, the facility was covered by the previous iteration of the ISGP permit (original effective date of 5/21/2010) with the same permit ID.

IV. Inspection Chronology

This was an unannounced inspection.

Evan Dobrowski, Washington Department of Ecology (DOE) Stormwater Inspector and Compliance Specialist, and I arrived at AAW at 9:20am on 5/20/19. We identified ourselves, presented our credentials, and provided business cards to an employee at the front desk who said his name was Mark. We also explained to Mark our intent to conduct an industrial stormwater inspection at AAW. Mark said that we needed to speak to Leo McMilian, Owner of AAW. Mark proceeded to make a phone call after which he told us that that Mr. McMilian was in the process of dropping his kids off at school. Mark said we could wait in the front office until McMilian arrived, which was typically sometime around 10:00am. I said we would wait for Mr. McMilian to arrive.

At approximately 10:00am I asked Mark if there was an update on when Mr. McMilian would arrive at AAW. Shortly thereafter Mark wrote a name and phone number on a slip of paper that he said belonged to Justin Park, Attorney at Romero Park P.S. that represents AAW, and said we should call Mr. Park. I asked Mark if Mr. Dobrowski and I could go to my car to call Mr. Park. Mark said that was fine. Without departing the property, I called Mr. Park from inside my vehicle from where it was parked, just southeast of the AAW office building, and introduced myself and informed him of the purpose of our visit to AAW. Mr. Park confirmed that Mr. McMilian was his client and that he typically requires an appointment be setup in advance for conducting a regulatory visit at AAW. I informed Mr. Park that I would need to have him speak to legal counsel with EPA, which Mr. Park said he understood. I then called Alex Fidis, EPA Region 10 Assistant Regional Counsel, at 10:09am to describe my interactions with AAW representatives that morning. Mr. Fidis said he would contact Mr. Park to discuss the

issue of granting inspection access.

At approximately 10:40am, a man exited the AAW office and approached Mr. Dobrowski and I where we were sitting in my vehicle and introduced himself as Mr. McMilian. Mr. Dobrowski and I identified ourselves, presented our credentials, and provided business cards to Mr. McMilian, as well as, explained to him our intent to conduct an industrial stormwater inspection at AAW. Mr. McMilian said that we would need to schedule an appointment to conduct an inspection for a later date. I explained to Mr. McMilian that it was my understanding that that was his stance and that Mr. Fidis and Mr. Park were having discussions regarding the matter of granting access for an inspection. I asked Mr. McMilian if I could ask him some questions regarding AAW and their NPDES compliance while we waited. Mr. McMilian consented to us asking questions. Mr. McMilian answered our questions and provided some NPDES compliance documents that were all dated 2014 or earlier. I asked Mr. McMilian if he had NPDES compliance documents from 2015 to the present. He said that all of his more recent NPDES files were at his lawyer's office.

I then let Mr. McMilian know that Mr. Dobrowski and I would be leaving AAW until there was agreement of when we could conduct an inspection, and we departed at approximately 11:52am. At 1:35pm Mr. Fidis called me to let me know that Mr. McMilian consented to Mr. Dobrowski and I conducting the inspection at 3:00pm that same afternoon. Mr. Dobrowski and I arrived at AAW at approximately 3:02pm and met Mr. McMilian and Vincent ("Vinny"), an AAW employee. We identified ourselves and presented our credentials to Vinny. I then began the inspection with an opening conference where I discussed the purpose and expectations of the inspection. Mr. Dobrowski and I then conducted a site walkthrough. Finally, Mr. Dobrowski and I departed the facility at approximately 4:55 pm.

Within the week following the 5/20/19 inspection, I called and e-mailed Mr. McMilian requesting copies of NPDES compliance files that were not available at the time of the inspection be e-mailed to me by 5/31/19, so I may review them (**Attachment F**). On 6/8/19, Colene Love, Mr. McMilian's daughter, called me to discuss how best to mail digital copies of the files. On 6/18/19, I received 2 flash drives containing digital files, the contents of which are discussed further in the records review section below.

Once granted full access to conduct this inspection, we were allowed to inspect all areas that we requested to inspect. During the inspection on 5/20/19, I provided Mr. McMilian with copies of the EPA Small Business Resources Information Sheet, a printout of a copy of the ISGP, and a printout from the DOE ISGP webpage with weblinks to guidance materials and other resources.

V. Background and Activity

According to Mr. McMilian, AAW has been in business in this location since the early 1930's and he said that he acquired the business about 15 years ago. AAW primarily deals in selling car parts and selling crushed cars. Mr. McMilian estimated that AAW

processes 1,000 cars per year. According to a sign at the facility office, normal business hours are 6 days a week (Mon.-Sat.) 8:30am-5:00pm.

According to the Stormwater Pollution Prevention Plan (SWPPP) provided by AAW, the AAW property is approximately 5.15 acres in size with ~3 of those acres being associated with industrial activity. Generally, stormwater flows from east to west across the surface of the site. There is a bermed area along a majority of the property's western boundary with a "trench" intended to prevent stormwater from discharging off-site. The DOE Permitting and Reporting Information System (PARIS) website identifies the receiving water as being Hylebos Creek.

According to the PARIS website, DOE's last ISGP inspection at the facility was on 2/5/15 (**Attachment C**).

Mr. McMilian said AAW is currently under a court order from a citizen lawsuit by Waste Action Partnership (WAP) to take measures to ensure compliance with their ISGP, including, paving sections of the facility yard in proximity to the E-Z crusher, installation of a an oil-water separator, installation of a stormwater drainage system, and installation of a rain garden to receive and allow for infiltration of industrial stormwaters on-site (**Photo 1, Attachment B**).

VI. Facility Review

Note that this section includes observations from the site walkthrough. Maps of the facility are included in **Attachment A**.

On the backside of the main building is a covered area where engines are stored and vehicle fluids are drained. The ground was almost entirely covered in dark stains (**Photos 2-5**). There were 3 totes in the vehicle fluid draining area stored without secondary containment that, according to facility representatives, contained anti-freeze, motor oil, gear lube, and transmission oil. (**Photo 5**). A bag of granular absorbent material and several absorbent pads were located near the backdoor of the office, and some small piles of granular absorbent were located under the draining vehicles (**Photo 3**). Facility representatives showed us the bucket they use to collect mercury switches that they send off as part of DOE's mercury switch removal program (**Photo 30**). They said that they had recently sent in the official container that had been previously provided by DOE.

To the west of the vehicle draining area were 9 totes stored uncovered and without secondary containment. According to facility representatives, 6 of the totes were empty and other 3 totes contained motor oil, an unknown petroleum chemical, and gasoline (**Photo 6**). The area near the totes smelled strongly of petroleum and, at the time of the inspection, the tote that contained the unknown petroleum chemical was leaking its contents onto the ground (**Photo 7**). After Mr. Dobrowski pointed out the leak, Vinny placed some absorbent pads over the leaked fluid. Also, in this area was a blue barrel stored uncovered and without secondary containment that facility representatives said was empty (**Photo 8**).

Just to the north of the area with the leaking tote was a fuel tank that facility representatives said holds 1,000 gallons and contained diesel fuel (**Photo 9**). At the time of the inspection, there was staining on the side of the tank and on the ground below the hose connection. North of the diesel tank was the crushing area where an "E-Z Crusher" was located (**Photos 10 & 11**). At the time of the inspection, a small pad under the E-Z Crusher was paved but all other surrounding surface was unpaved. Mr. McMilian said that AAW plans to pave more of the area surrounding the E-Z Crusher (**Photo 11**) and install catch basins that will route drainage from this area to an oil-water separator which will then drain to a future rain-garden, as depicted in **Photo 1**. At the time of the inspection, there was a catch basin caked with mud and without any filtration or other best management practices (BMPs) in place (**Photo 12**). Mr. McMilian said that this catch basin as well as an oil-water separator had recently installed.

Near the north end of the facility yard was a red dumpster that was uncovered and empty (**Photo 13**). According to facility representatives, they use this dumpster to store scrap aluminum parts before sending it off to Seattle Iron and Metals.

Along the northwest and western boundary of the yard was a bermed area with ecology blocks and a trench with geotextile and plastic material covering it (**Photos 14-17**). There was also sediment fencing separating the trench and the yard. Mr. McMilian said that he had this berm and "trench" installed about 6 years ago to help contain stormwater runoff on-site. He said that before he installed these BMPs it had only been some sediment fencing along the perimeter of the property. Behind the berm and ecology blocks was a steep descent into a wooded area. I did not walk behind the berm during this inspection.

I asked Mr. McMilian if AAW had ever had a discharge of stormwater. Mr. McMilian said that the facility has had a discharge of stormwater near the southwest corner of the yard when water level in the trench had overtopped the berm wall (**Photo 17**). He was not able to recall when this occurred but estimated it had happened in the past 3 to 4 years.

Near the south end of the yard was a Schnitzer dumpster that was uncovered and contained scrap metal (**Photos 18 & 19**). According to facility representatives, the dumpster is used to store sheet aluminum before being sent to Schnitzer Steel approximately every 3 to 4 months. Next to the Schnitzer dumpster was a forklift with some dark staining on the ground that appeared to be oil stains (**Photo 20**).

At the southwest corner of the property was a vegetated area where vehicles and miscellaneous materials were stored (**Photos 21-23**). The berm along the side of the facility yard did not extend to this area and the slope of the ground made it appear that any surface stormwater runoff from this grassy area is likely to flow northwest towards the forest and away from the facility.

On the south side of the property was a cleared area where Mr. McMilian said will be the future rain garden infiltration area (**Photo 24**). North of the cleared area was a pipe with fluid flowing from it, standing water, and staining (**Photos 25 & 26**). According to

facility representatives, the pipe routes drainage from the recently installed oil-water separator and catch basin located near the crushing pad.

To the south of the main building were 2 totes containing transmission fluid that were stored uncovered and without secondary containment as well as a 1,000-gallon tank stored uncovered (**Photos 27 & 28**). According to facility representatives the 1,000-gallon tank was empty at the time of inspection. Also, on the south side of the main building I saw extensive dark staining on the ground that extended from the vehicle fluid draining area (**Photo 29**).

VII. Records Review

I requested to review all NPDES compliance records from the past 5 years. At the time of inspection, there were not NPDES compliance records available that were more recent than 2014. Mr. McMilian said that all of his more recent NPDES files were at his lawyer's office. As noted in the inspection chronology section earlier in this report, following the inspection, I received 2 flash drives from AAW on 6/18/19 that contained digital copies of records. I reviewed the contents of those flash drives (**Attachment D**) and am including observations from my review as follows:

- Stormwater Pollution Prevention Plan (SWPPP) – The SWPPP was prepared by SNR Company, dated May 2015, and certified by Mr. McMilian on 6/1/15.

Observations of the contents of the SWPPP:

- Pollution Prevention Team – No names were included in this section.
- Sampling – The SWPPP states in multiple locations that there are no point source flows from the property, including on pages 2, 7, 8, 11, 20, 22, and 41.
- The SWPPP states that there are no on-site stormwater conveyances on pages 22 and 25.
- Best Management Practices (BMPs):
 - o The SWPPP generally describes that vehicle fluids and fuel are stored with secondary containment and are not exposed to precipitation, including pages 15, 17, and 24.
 - o The SWPPP generally describes BMPs for cleaning up spills, including on pages 29 and 47.
- Employee Training – Page 26 of the SWPPP identifies annual training.

- Site Inspection Reports – AAW provided site inspection reports from Jan. 2015 to May 2019.

Observations of the contents of the inspection reports:

- Most of the inspections were dated as having occurred on the final day of the month, including all inspections in 2015 & 2016, 9 of the inspections each in 2017 & 2018, and 4 of the 2019 inspections.
 - o This included 3 monthly inspections conducted on Sundays (5/31/15, 1/31/16, and 7/31/16)

- None of the certification checkboxes were marked
 - On a majority of the inspection reports, both the facility name and time of the inspection were left blank, including:
 - o 2015 – May-Dec.
 - o 2016 – All 12 reports.
 - o 2017– All 12 reports.
 - o 2018– All 12 reports.
 - o 2019 – Jan.- May
 - The option saying that ‘no’ discharges were observed was consistently checked on all monthly reports. Yet, the option saying that ‘yes’ the discharge was free of visible pollutants in the ‘Observation of Stormwater Discharge’ section of the monthly inspection report was also consistently checked on all monthly reports.
 - The options saying that ‘yes’ equipment fueling and maintenance BMPs including secondary containment are being used was consistently checked on all monthly reports.
 - The options saying that ‘no’ vehicles and/or equipment were leaking fluids was consistently checked on all monthly reports.
- Annual Reports and Discharge Monitoring Reports (DMRs) – AAW provided annual reports from 2016-2018 and the DMRs from the first quarter of 2015 (“Q1/2015”) through Q1/2019. I also reviewed DMR information available on the DOE PARIS website.

Observations of the contents of the annual reports and DMRs:

- No sampling results were indicated on any of the DMRs provided by AAW
 - DMRs provided by AAW for Q1/2015, Q3/2015, Q4/2015, Q1/2016, Q2/2016, Q3/2016, Q4/2016, and Q1/2019 did not indicate why samples were not collected (i.e. check boxes were not marked)
 - According to DOE letters available on PARIS (**Attachment E**), DMRs were not submitted by AAW to DOE for Q1/2015, Q3/2015, Q4/2015, Q1/2016, Q2/2016, Q3/2016, Q4/2016, Q1/2017, Q2/2017, Q3/2017, or Q4/2017.
 - AAW did not provide a copy of the 2015 annual report.
- Documents for concrete work and oil-water separator – These materials were dated Sep. and Oct. 2018.

VIII. Observed Discharge

I did not observe any discharge during the 5/20/19 inspection.

IX. Receiving Water

According to the DOE PARIS website the receiving water for stormwater discharges from this facility is the Hylebos Creek.

X. Areas of Concern

A. No Secondary Containment

Section S3.B.4.b.i.4) of the ISGP states that the permittee shall:

- a) “Store all chemical liquids, fluids, and petroleum products, on an impervious surface that is surrounded with a containment berm or dike that is capable of containing 10% of the total enclosed tank volume or 110% of the volume contained in the largest tank, whichever is greater.”
- c) “Locate spill kits within 25 feet of all stationary fueling stations, fuel transfer stations, mobile fueling units, and used oil storage/transfer stations.”

At the time of the inspection, there were 11 totes stored without secondary containment (Photos 5, 6, 27) including 1 tote of an unknown petroleum chemical that was leaking its contents onto the ground (Photo 7). There was also a 1,000-gallon diesel fuel tank with staining on the side of the tank and on the ground below the hose connection (Photo 9). There were not any spill kits stored within 25 feet of this fueling tank.

B. BMPs Not Implemented

Section S3.B.4.b.i.3) of the ISGP states that the SWPPP must include preventative maintenance BMPs including a requirement that the permittee must:

- e) “...Take leaking equipment and *vehicles* out of service or prevent leaks from spilling on the ground until repaired.
- d) Immediately clean up spills and leaks (e.g., using absorbents, vacuuming, etc.) to prevent the *discharge of pollutants*.”

Section S3.B.4.b.i.4) of the ISGP states that the SWPPP must include spill prevention BMPs including a requirement that the permittee must:

- f) “Use drip pans or equivalent containment measures during all petroleum transfer operations.”
- h) “Use drip pans and absorbents under or around leaky *vehicles* and equipment or store indoors where feasible. Drain fluids from equipment and *vehicles* prior to on-site storage or disposal.”

As is described in the Facility Review section of this report, there was staining from vehicle fluids in multiple areas of the site (Photos 2-5, 20, 25, 29). This staining demonstrates that preventative maintenance and spill prevention BMPs had not been implemented.

C. Uncovered Dumpsters

Section S3.B.4.b.i.2)d) of the ISGP states that the permittee shall “Keep all dumpsters under cover or fit with a lid that must remain closed when not in use.”

At the time of the inspection, there was an aluminum metal dumpster that was not covered and did not have a lid (**Photos 18 & 19**).

D. Missing Records & Records Not On-site

Section S9.C. of the ISGP says that the permittee shall retain permit documents onsite for a minimum of 5 years.

At the time of inspection, there were not NPDES compliance records available that were more recent than 2014. Mr. McMilian said that all of his more recent NPDES files were at his lawyer’s office. Failure to maintain NPDES compliance records onsite was also an issue noted in DOE’s 2015 inspection report (**Attachment C**). Following the inspection, I received 2 flash drives from AAW on 6/18/19 that contained digital copies of records (**Attachment D**).

AAW did not provide a copy of their 2015 annual report. It is unclear if this report was completed.

E. SWPPP Missing Information

Section S3.B. of the ISGP identifies the specific content required to be included in the SWPPP. This includes:

1. A site map that identifies the locations of stormwater drainage structures and stormwater discharge points offsite.
3. Identify specific individuals on the pollution prevention team.

The SWPPP provide by AAW was dated May 2015 and certified by Mr. McMilian on 6/1/15. At the time of the inspection, there was a catch basin that routed drainage to an oil-water separator (**Photo 11**) yet, on pages 22 and 25 of the SWPPP, it states that there are no on-site stormwater conveyances. Additionally, Mr. McMilian said that the facility has had a discharge of stormwater near the southwest corner of the yard when water level in the trench had overtopped the berm wall (**Photo 17**) but, on pages 2, 7, 8, 11, 20, 22, and 41 of the SWPPP is says that there are not any point source flows from the property. Neither the locations of storm drainage structures, nor the point of stormwater discharge offsite, are included in the SWPPP.

The Pollution Prevention Team on page 5 of the SWPPP did not include any names of people.

F. Employee Training Not Conducted

Section S3.B.4.b.i.5).c) of the ISGP identifies training requirements. This includes:

- c) Annual training, at a minimum
- d) Training logs

Page 26 of the AAW SWPPP identifies annual training, but no logs were provided by AAW showing that training has been conducted.

G. Inspections Not Completed

Section S7.A.1. of the ISGP states “The Permittee shall conduct and document visual inspections of the site each month.”

Section S7.C. of the ISGP says that these visual inspections must include:

- a. Time of the inspection.
- c. Certification by the person conducting the inspection.

It appears that monthly inspections are not conducted according to the requirements in Section S7 of the Permit. AAW provided copies of monthly inspection reports, but these reports appeared to be filled-out identically in their observations over the period from Jan. 2015-May 2019, are incomplete, and are inconsistent. This includes:

- Most of the inspections were dated as having occurred on the final day of the month, this included 3 monthly inspections dated on Sundays (5/31/15, 1/31/16, and 7/31/16), a day that is outside the normal business hours of AAW.
- None of the certification checkboxes were marked.
- On a majority of the inspection reports, the time of the inspection was left blank, including:
 - o 2015 – May-Dec.
 - o 2016 – All 12 reports.
 - o 2017– All 12 reports.
 - o 2018– All 12 reports.
 - o 2019 – Jan.- May
- The option saying that ‘no’ discharges were observed was consistently checked on all monthly reports. However, the option saying that ‘yes’ the discharge was free of visible pollutants in the ‘Observation of Stormwater Discharge’ section of the monthly inspection report was also consistently checked on all monthly reports. This is inconsistent information.
- The options saying that ‘yes’ equipment fueling and maintenance BMPs including secondary containment are being used was consistently checked on all monthly reports, but at the time of the 5/20/19 inspection there were many instances where secondary containment was not being used.
- The options saying that ‘no’ vehicles and/or equipment were leaking fluids was consistently checked on all monthly reports, but at the time of the 5/20/19

inspection there were signs of leaking vehicle fluids and equipment that were observed.

H. Discharge Sampling

Section S4.B.1.a. of the ISGP states “The Permittee shall sample the *discharge* from each designated location at least once per quarter...”

No sampling results were indicated on any of the DMRs provided by AAW. However, according to Mr. McMilian, the facility has had a discharge of stormwater near the southwest corner of the yard when water level in the trench had overtopped the berm wall (**Photo 17**). He was not able to recall when this occurred but estimated it had happened in the past 3 to 4 years. Similar claims by AAW were noted in DOE’s 2015 inspection report (**Attachment C**).

It appears that discharges offsite are not sampled according to ISGP requirements.

I. DMRs Incomplete or Not Submitted

Section S9.A.4. of the ISGP states “The Permittee shall submit a DMR each reporting period, whether or not the *facility* has discharged *stormwater* from the site. For Permittees that receive permit coverage after January 2, 2015, the first reporting period is the first full quarter following the effective date of permit coverage.

- a. If no *stormwater* sample was obtained from the site during a given reporting period, the Permittee shall submit the DMR form indicating “no sample obtained”, or “no discharge during the quarter”, as applicable.”

Section G2.D. of the ISGP says that any person signing a permit required document shall make the certification that “...the information submitted is, to the best of my knowledge and belief, true, accurate, and complete...”

DMRs provided by AAW for Q1/2015, Q3/2015, Q4/2015, Q1/2016, Q2/2016, Q3/2016, Q4/2016, and Q1/2019 did not indicate why samples were not collected during those quarters (i.e. check boxes were not marked).

According to DOE letters available on PARIS (**Attachment E**), DMRs were not submitted by AAW to DOE for Q1/2015, Q3/2015, Q4/2015, Q1/2016, Q2/2016, Q3/2016, Q1/2017, Q2/2017, Q3/2017, or Q4/2017.

XI. Closing Conference

A closing conference was held with both Mr. McMilian and Vinny to discuss our inspection observations. We discussed areas of concern A, B, and D listed above and thanked them for their time and assistance with the inspection.

Report Completion Date:

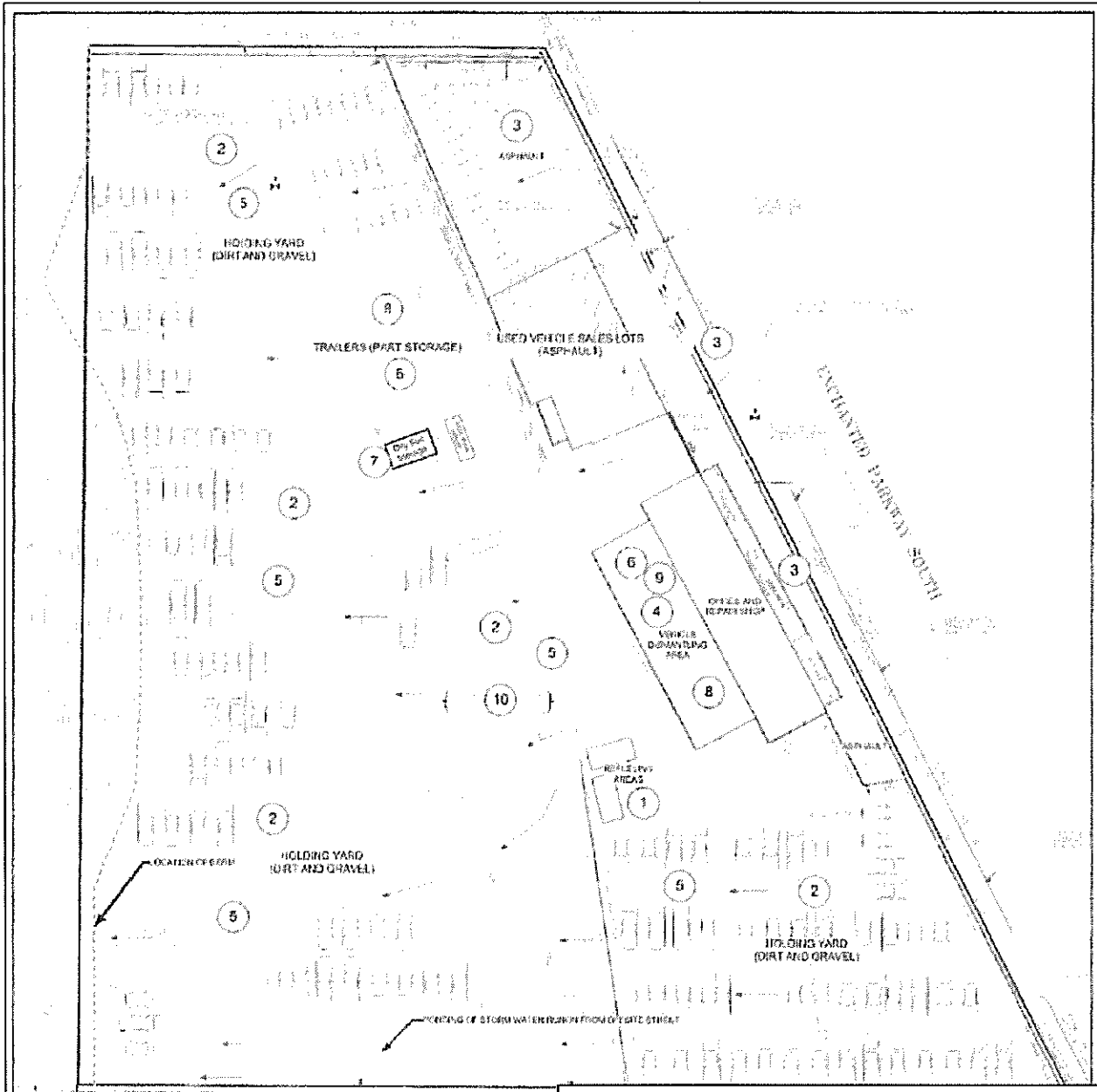
7/23/19

Lead Inspector Signature:

Brim



Map 1: Aerial photo overview of AAW taken from Google Maps with approximate infrastructure locations, as observed at the time of inspection, are shown in red.



SWPPP Company
 ADDRESS: 12345 INDUSTRIAL BLVD, SUITE 100, HOUSTON, TX 77058
 PHONE: (713) 123-4567
 FAX: (713) 987-6543
 E-MAIL: info@swppp.com
 WEBSITE: www.swppp.com

EXCERPT
 INSTRUCTIONS FOR
 WITH HOLDING
 AREA

Map 2: Excerpts of SWPPP map information.

Industrial Activity	Associated Pollutant(s)	Location(s) on Site Plan
Refueling area	Petroleum Hydrocarbons	1
Equipment (forklifts, loaders, etc.)	Petroleum Hydrocarbons, zinc, copper	2
Drive, loading and parking area	Petroleum Hydrocarbons	3
Vehicle dismantling and draining	Petroleum Hydrocarbons, Copper, Zinc and Lead	4
Movement of vehicles and equipment on unpaved holding yard	Turbidity	5
Part storage	Petroleum Hydrocarbons, Copper, Zinc and Lead	6
Oily soil storage	Petroleum Hydrocarbons, Turbidity	7
Vehicle dismantling, part storage	Mercury	8
Equipment Maintenance	Petroleum Hydrocarbons, Zinc and Copper	9
Vehicle Crushing	Petroleum Hydrocarbons, Zinc and Copper	10

ATTACHMENT B

Photo Log

(All photographs were taken by Brian Levo on 5/20/19)

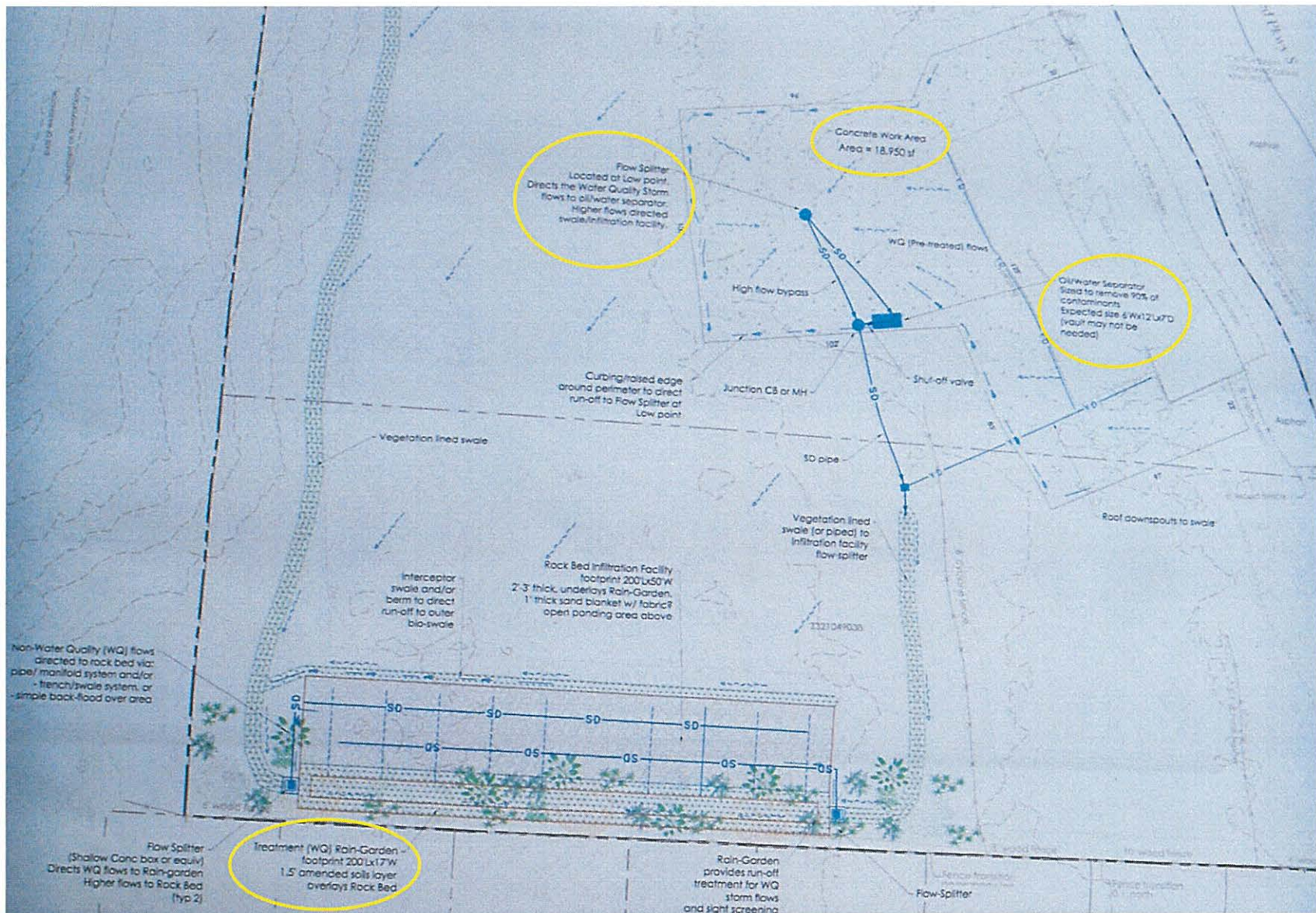


Photo 1 (SI850976): Stormwater infiltration plan including installation of an oil-water separator, a stormwater drainage system, and a rain garden (yellow circles). Note that the contrast and sharpness of this photo have been increased and the photo has been cropped.

Astro Auto Wrecking NPDES Inspection Report

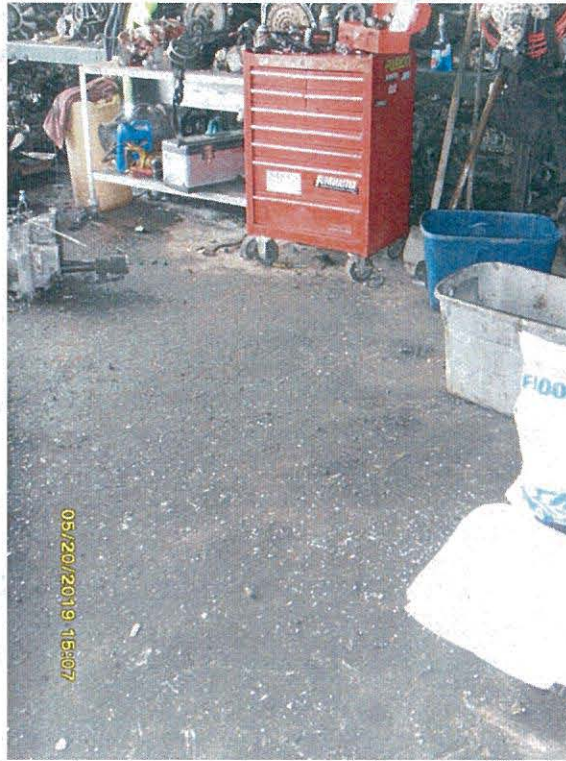


Photo 2 (SI850991): Note the dark staining on the ground throughout the engine storage and vehicle draining areas.



Photo 3 (SI850990): Vehicle fluid draining area under cover on the back side of the main building. Note the fluid draining from the car in the foreground into a plastic bin (yellow arrow) and the granular absorbent below the car.



Photo 4 (SI850992): Western view of sheen on the ground near the engine storage and vehicle draining areas. Note the clean tarp covering materials stored outside in an area exposed to stormwater.



Photo 5 (SI850997): Three totes stored without secondary containment in the vehicle fluid draining area on the back side of the main building. According to facility representatives, they contained anti-freeze, motor oil, gear lube, and transmission oil.



Photo 6 (SI850999): Nine totes stored uncovered and without secondary containment. According to facility representatives, the 6 totes on the left of the photo were empty and the 3 totes on the right contained motor oil (left tote), an unknown petroleum chemical (center tote identified by a yellow arrow) which was leaking onto the ground, and gasoline (right tote).



Photo 7 (SI851032): A tote of unknown petroleum chemical actively leaking onto the ground at the time of inspection (leaked fluid indicated with yellow arrow). The area smelled strongly of petroleum. Facility representatives placed clean absorbent pad under the leak after Mr. Dobrowski pointed it out to them.



Photo 8 (SI851030): An empty barrel stored uncovered and without secondary containment on the southwest side of the main building.



Photo 9 (SI851029): A 1,000-gallon diesel fuel tank located southwest of the main building and close to the E-Z crusher with staining on the side of the tank and beneath the tank (yellow arrow). According to facility representatives, this tank is double-walled.



Photo 10 (SI850995): Southwestern view of the E-Z Crusher and crushing pad.



Photo 11 (SI850996): Western view of the area to the north of the E-Z Crusher and crushing pad. According to Mr. McMilian, this area will be paved as part of the stormwater infiltration project.



Photo 12 (SI850994): Drain located near the E-Z Crusher that Mr. McMilian said routes to the oil-water separator.

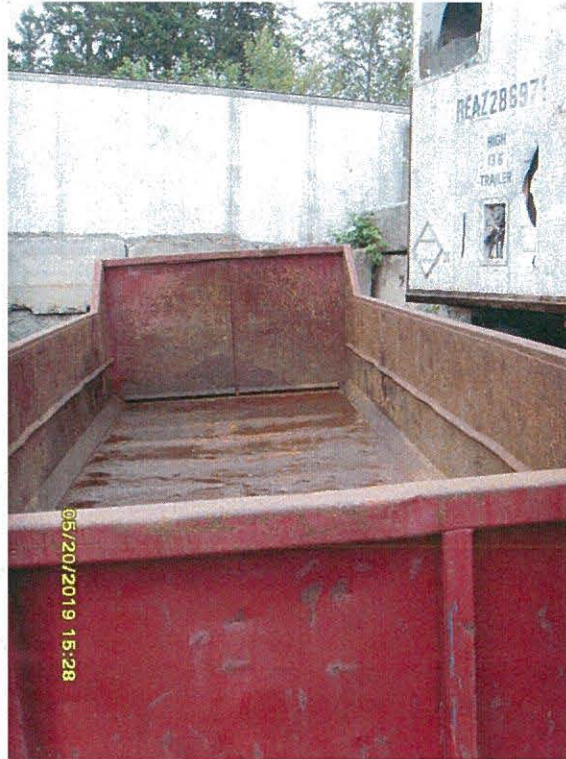


Photo 13 (SI851002): An uncovered and empty scrap metal dumpster on the north end of the facility yard. According to facility representatives, they use this dumpster to store scrap aluminum parts before sending it off to Seattle Iron and Metals.



Photo 14 (SI851003): Western view of the trench and berm at the north end of the facility yard.



Photo 15 (SI851005): Northern view of the trench at the north end of the facility yard. Note that the sediment fencing is not installed correctly to make it effective at reducing sediment (yellow arrows).



Photo 16 (SI851007): Southern view of the trench and berm near the northwestern corner of the facility yard.



Photo 17 (SI851010): Southwestern view of the trench and berm at the west side of the facility yard. Mr. McMilian said that the facility has collected stormwater samples of a discharge from this approximate area (shown by a yellow arrow) in the past, when stormwater flows have overtopped the berm.



Photo 18 (SI851012): An uncovered Schnitzer dumpster on the south side of the facility yard. Facility representatives said that the dumpster is used to store sheet aluminum before being sent to Schnitzer Steel approximately every 3 to 4 months.



Photo 19 (SI851011): View inside the large Schnitzer dumpster shown in the previous photo.



Photo 20 (SI851013): Western view of staining on the ground (yellow arrow) on the west side of the Schnitzer dumpster.



Photo 21 (SI851017): Western view at the southwestern corner of the property. According to Mr. McMilian the vehicles and materials stored here belong to him. Note that surface stormwater runoff from this area is likely to flow away from the photographer and towards the forest.



Photo 22 (SI851018): A hoist stored in an old container near the southwestern corner of the property. Note that stormwater runoff from this area is likely to flow away from the photographer and towards the forest.



Photo 23 (SI851019): A hoist stored in an old container near the southwestern corner of the property.



Photo 24 (SI851022): View of the area on the south side of the property that Mr. McMilian said will be the future rain garden.



Photo 25 (SI851025): A pipe with fluid flowing from it, standing water, and staining located near the south end of the facility. According to facility representatives, the pipe routes drainage from the recently installed oil-water separator and catch basin located near the crushing pad.



Photo 26 (SI851026): Southwestern view of the slope away from the oil-water separator pipe area shown in the previous photo.



Photo 27 (SI851034): Western view of 2 totes stored uncovered and without secondary containment south of the main building. According to the tote labels, they contained transmission fluid.



Photo 28 (SI851035): Western view of an uncovered 1,000-gallon diesel tank (yellow arrow) south of the main building. According to facility representatives, this tank was empty and belongs to Emerald Services.



Photo 29 (SI851038): Southwestern view from the south side of the main building. Note the extensive dark staining on the ground that extends from the vehicle fluid draining area (back right side).



Photo 30 (SI851039): Mercury switch storage bucket.

Astro Auto Wrecking NPDES Inspection Report

Complete list of photographs taken during the inspection:

Photo ID	Photographer	Date	Description
SI850976	Brian Levo	5/20/19	Stormwater infiltration plan including installation of an oil-water separator, a stormwater drainage system, and a rain garden.
SI850977	Brian Levo	5/20/19	Stormwater infiltration plan including installation of an oil-water separator, a stormwater drainage system, and a rain garden.
SI850978	Brian Levo	5/20/19	Stormwater infiltration plan including installation of an oil-water separator, a stormwater drainage system, and a rain garden.
SI850979	Brian Levo	5/20/19	Stormwater infiltration plan including installation of an oil-water separator, a stormwater drainage system, and a rain garden.
SI850980	Brian Levo	5/20/19	Stormwater infiltration plan including installation of an oil-water separator, a stormwater drainage system, and a rain garden.
SI850981	Brian Levo	5/20/19	Stormwater documents on-file.
SI850982	Brian Levo	5/20/19	Stormwater documents on-file.
SI850983	Brian Levo	5/20/19	Monthly inspection report dated Dec. 2014.
SI850984	Brian Levo	5/20/19	Monthly inspection report dated Dec. 2014.
SI850985	Brian Levo	5/20/19	Monthly inspection report dated Dec. 2014.
SI850986	Brian Levo	5/20/19	Monthly inspection report dated Dec. 2014.
SI850987	Brian Levo	5/20/19	Daily log of stormwater discharge characteristics dated Jan. 2014.
SI850988	Brian Levo	5/20/19	Used engines stored under cover on the back side of the main building.
SI850989	Brian Levo	5/20/19	Absorbent materials placed in proximity to the covered engine storage and vehicle fluid draining areas.
SI850990	Brian Levo	5/20/19	Vehicle fluid draining area under cover on the back side of the main building.
SI850991	Brian Levo	5/20/19	Staining on the ground throughout the engine storage and vehicle draining areas.
SI850992	Brian Levo	5/20/19	Western view of sheen on the ground near the engine storage and vehicle draining areas. Note the clean tarp covering materials stored outside in an area exposed to stormwater.
SI850993	Brian Levo	5/20/19	Eastern view of the vehicle fluid draining area on the back side of the main building.
SI850994	Brian Levo	5/20/19	Drain located near the E-Z Crusher that Mr. McMilian said routes to the oil-water separator.
SI850995	Brian Levo	5/20/19	Southwestern view of the E-Z Crusher and crushing pad.
SI850996	Brian Levo	5/20/19	Western view of the area to the north of the E-Z Crusher and crushing pad. According to Mr. McMilian, this area will be paved as part of the stormwater infiltration project.

Astro Auto Wrecking NPDES Inspection Report

SI850997	Brian Levo	5/20/19	Three totes stored without secondary containment in the vehicle fluid draining area on the back side of the main building. According to facility representatives, they contained anti-freeze, motor oil, gear lube, and transmission oil.
SI850998	Brian Levo	5/20/19	Three totes stored without secondary containment in the vehicle fluid draining area on the back side of the main building. According to facility representatives, they contained anti-freeze, motor oil, gear lube, and transmission oil.
SI850999	Brian Levo	5/20/19	Nine totes stored uncovered and without secondary containment. According to facility representatives, the six totes on the left of the photo were empty at the time of the inspection, but the three totes on the right contained motor oil (left), an unknown petroleum chemical (center), and gasoline (right).
SI851000	Brian Levo	5/20/19	Eastern view of the main gate into the facility yard.
SI851001	Brian Levo	5/20/19	Ten freight containers near the north end of the facility yard. Facility representatives said they're filled with motors and transmissions.
SI851002	Brian Levo	5/20/19	An empty scrap metal container on the north end of the facility yard. According to facility representatives, they use this container to store scrap aluminum parts before sending it off to Seattle Iron and Metals.
SI851003	Brian Levo	5/20/19	Western view of the trench at the north end of the facility yard.
SI851004	Brian Levo	5/20/19	Northern view of the trench at the north end of the facility yard.
SI851005	Brian Levo	5/20/19	Northern view of the trench at the north end of the facility yard. Note that the sediment fencing is not installed correctly.
SI851006	Brian Levo	5/20/19	Southern view of the trench at the northwestern corner of the facility yard.
SI851007	Brian Levo	5/20/19	Southern view of the trench near the northwestern corner of the facility yard.
SI851008	Brian Levo	5/20/19	View of a section of the sediment fencing not installed correctly at the trench along the west side of the yard.
SI851009	Brian Levo	5/20/19	Southwestern view of the trench at the west side of the facility yard.
SI851010	Brian Levo	5/20/19	Southwestern view of the trench at the west side of the facility yard. Mr. McMilian said that the facility has collect stormwater samples of a discharge from this area in the past.
SI851011	Brian Levo	5/20/19	View inside the large Schnitzer dumpster. Facility representatives said that the dumpster is used to store sheet aluminum before being sent to Schnitzer Steel approximately every three to four months.
SI851012	Brian Levo	5/20/19	Schnitzer dumpster on the south side of the facility yard. Facility representatives said that the dumpster is used to store sheet aluminum before being sent to Schnitzer Steel approximately every three to four months.

Astro Auto Wrecking NPDES Inspection Report

SI851013	Brian Levo	5/20/19	Western view of staining on the ground to the west of the Schnitzer dumpster.
SI851014	Brian Levo	5/20/19	Southern view of equipment and vehicles stored near the southwest corner of the property.
SI851015	Brian Levo	5/20/19	Southern view of the trench near the southwest corner of the property.
SI851016	Brian Levo	5/20/19	View of the ground at the southernmost point of the trench.
SI851017	Brian Levo	5/20/19	Western view at the southwestern corner of the property. According to Mr. McMilian the vehicles and materials stored here belong to him.
SI851018	Brian Levo	5/20/19	A hoist stored in an old container near the southwestern corner of the property.
SI851019	Brian Levo	5/20/19	A hoist stored in an old container near the southwestern corner of the property.
SI851020	Brian Levo	5/20/19	Old work equipment near the southwestern corner of the property.
SI851021	Brian Levo	5/20/19	A white tank stored on the south side of the facility. According to facility representatives, the tank is double-walled and empty.
SI851022	Brian Levo	5/20/19	View of the area on the south side of the property that Mr. McMilian said will be the future rain garden.
SI851023	Brian Levo	5/20/19	Various tanks stored on the south side of the facility. According to facility representatives, the tanks are empty and are put inside of cars before they are crushed and sent off-site to be shredded.
SI851024	Brian Levo	5/20/19	Western view of various tanks stored on the south side of the facility. According to facility representatives, the tanks are empty and are put inside of cars before they are crushed and sent off-site to be shredded.
SI851025	Brian Levo	5/20/19	A pipe with fluid flowing from it, standing water, and staining on the south end of the facility. According to facility representatives, the pipe routes drainage from the recently installed oil-water separator and storm drains located near the crushing pad.
SI851026	Brian Levo	5/20/19	Southwestern view of the slope away from the oil-water separator pipe area shown in the previous photo.
SI851027	Brian Levo	5/20/19	Eastern view from the south side of the facility yard. Note the Schnitzer dumpster (left) and the E-Z crusher (top left) that are upgradient.
SI851028	Brian Levo	5/20/19	Southeastern view from the south side of the facility yard. Note the Schnitzer dumpster (right) and an excavator (left).
SI851029	Brian Levo	5/20/19	A 1,000-gallon diesel fuel tank located southwest of the main building and close to the E-Z crusher with staining on the side of the tank and beneath the tank. According to facility representatives, this tank is double-walled.
SI851030	Brian Levo	5/20/19	An empty barrel stored uncovered southwest of the main building.
SI851031	Brian Levo	5/20/19	Various chemical containers stored inside of an open freight container southwest of the main building. According to facility representatives, these chemical containers were all empty.

Astro Auto Wrecking NPDES Inspection Report

SI851032	Brian Levo	5/20/19	A tote of unknown petroleum chemical actively leaking onto the ground at the time of inspection. The area smelled strongly of petroleum. Facility representatives placed clean diapers under the leak after Mr. Dobrowski pointed it out to them.
SI851033	Brian Levo	5/20/19	A tote of unknown petroleum chemical actively leaking onto the ground at the time of inspection. The area smelled strongly of petroleum. Facility representatives placed clean diapers under the leak after Mr. Dobrowski pointed it out to them.
SI851034	Brian Levo	5/20/19	Western view of two totes stored uncovered and without secondary containment south of the main building. According to the tote labels, they contained transmission fluid.
SI851035	Brian Levo	5/20/19	Western view of a 1,000-gallon diesel tank south of the main building. According to facility representatives, this tank was empty and belongs to Emerald Services.
SI851036	Brian Levo	5/20/19	Western view of two totes stored uncovered and without secondary containment south of the main building. According to the tote labels, they contained transmission fluid.
SI851037	Brian Levo	5/20/19	Northeastern view of empty propane tanks stored on the south side of the main building.
SI851038	Brian Levo	5/20/19	Southwestern view from the south side of the main building. Note the extensive staining on the ground that extends from the vehicle fluid draining area (back right side).
SI851039	Brian Levo	5/20/19	Mercury switch storage bucket.
SI851040	Brian Levo	5/20/19	Used batteries stored on the backside of the main building.

ATTACHMENT C

DOE 2015 Inspection Report



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

March 13, 2015

Astro Auto Wrecking
37307 Enchanted Parkway South
Federal Way, Washington 98003

Re: Industrial Stormwater General Permit (ISWGP Coverage WAR11869)

Dear Mr. Leo:

Enclosed is the report from the Department of Ecology's recent Industrial Stormwater NPDES General Permit compliance inspection conducted at your facility on February 5, 2015. I would like to thank you for the time you spent with me during my visit. Please note there were a number of issues that require your immediate attention.

Please contact me at (360) 407-6273 or psta461@ecy.wa.gov if you have any questions, comments or would like additional technical assistance.

Sincerely,

A handwritten signature in cursive script that reads "Paul Stasch".

Paul Stasch
Industrial Stormwater Facility Manager
Southwest Regional Office
Water Quality Program

Enclosure

cc: Tracie Walters, Ecology



REQUIREMENTS: 1. Obtain a copy of the ISWGP. 2. Recover your stormwater file form your former employee or create a new stormwater pollution prevention plan (SWPPP) for your facility. 3. Collect a quarterly monitoring sample every quarter there is a discharge from your facility. 4. Submit DMRs or electronic reporting in a timely fashion. 5. Comply with the terms and conditions of the ISWGP.

RECOMMENDATIONS:

REMINDER: A quarterly monitoring sample must be collected every quarter there is a stormwater discharge from the facility.

Verify Latitude and Longitude

Announced
 Unannounced

Name(s) and Signature(s) of Inspector(s) Paul Stasch <i>Paul Stasch</i>	Agency/Office Phone and Fax Numbers Ecology/SWRO (360) 407-6273	Date 2-24-15
Signature of Management A Q Reviewer Steve Eberl <i>Steve Eberl</i>	Agency/Office Phone and Fax numbers Ecology/SWRO (360) 407-6293	Date 3-2-2015

EPA FORM 3560-3 (Rev 1-06) Previous editions are obsolete



ATTACHMENT D

Flash Drives Containing AAW Records

ATTACHMENT E

DOE Letters Regarding DMR Submittals



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

October 4, 2016

Leo McMilian
Astro Auto Wrecking
37307 Enchanted Pkwy S
Federal Way, WA 98003-7614

WAR011869
ASTRO AUTOWRECKING
37307 ENCHANTED PKWY S
Federal Way, WA98003

RE: 2016 Discharge Monitoring Reports

Dear Industrial Stormwater Permittee:

Your facility is covered under the Washington State Department of Ecology's (Ecology) Industrial Stormwater General Permit (ISGP). This permit requires you to sample the stormwater discharge(s) from your facility and report the results to Ecology on a Discharge Monitoring Report (DMR). DMRs must be submitted during each quarter even if there are no discharge(s) from your facility.

Ecology is tracking DMR submittals and follows up with permittees that have not submitted required DMRs.

According to Ecology's records, you have not submitted First and Second Quarter DMRs 2016 DMR and are currently in violation of your ISGP.

According to the permit:

- DMRs must be submitted to Ecology according to the following schedule:

Reporting Period	Months	DMR Due Date
1st Quarter	January - March	May 15, 2016
2nd Quarter	April - June	August 15, 2016
3rd Quarter	July - September	November 15, 2016
4th Quarter	October - December	February 15, 2017

- If your facility did not discharge during a reporting period, you must still submit the required DMR, checking the box for "No Discharge."

If you did not take a sample for a particular quarter, check the appropriate reporting code on the DMR (e.g., no discharge, consistent attainment, analysis not conducted, etc.).

Ecology relies on complete and accurate DMR information to assess your compliance with permit conditions. Each missing DMR is counted as a separate permit violation. Failure to submit DMRs or non-compliance with other conditions of the permit is a violation of the ISGP, and therefore a violation of The Federal Clean Water Act and Chapter 90.48 Revised Code of Washington (RCW) - the State of Washington Pollution Control Act. **Failure to submit DMRs or non-compliance with other conditions of the permit may result in issuance of monetary penalties.** Compliance with this notification does not mean you have complied with all permit conditions.

Please note: DMRs must be submitted electronically by November 4, 2016 using Ecology's Water Quality Permitting Portal - Discharge Monitoring Report application (WQWebDMR), unless a waiver from electronic reporting has been granted (e.g., if a permittee does not have broadband internet access). If a waiver has been granted, reports must be postmarked or delivered to the following address by the due date:

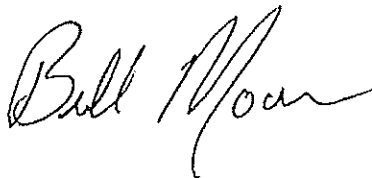
Washington Department of Ecology
Water Quality Program - DMR Violation Response
PO Box 47696
Olympia, WA 98504-7696

To find out more information regarding electronic reporting and to sign up for WQWebDMR go to: <http://www.ecy.wa.gov/programs/wq/permits/paris/webdmr.html>.

If you have questions about how to register for WQWebDMR, contact Ecology's WQWebDMR staff at WQWebPortal@ecy.wa.gov, or (360) 407-7097 (Olympia area), or (800) 633-6193/option 3.

If you believe this letter is in error or if you need clarification or assistance, please contact Clay Keown at clay.keown@ecy.wa.gov or (360) 407-6048.

Sincerely,



Bill Moore, P.E., Manager
Program Development Services Section
Water Quality Program

cc: File, Ecology HQ



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

December 1, 2016

Leo McMilian
Astro Auto Wrecking
37307 Enchanted Pkwy S
Federal Way, WA 98003-7614

WAR011869
ASTRO AUTOWRECKING
37307 ENCHANTED PKWY S
Federal Way, WA98003

RE: 2016 Discharge Monitoring Reports

Dear Industrial Stormwater Permittee:

Your facility is covered under the Washington State Department of Ecology's (Ecology) Industrial Stormwater General Permit (ISGP). This permit requires you to sample the stormwater discharge(s) from your facility and report the results to Ecology on a Discharge Monitoring Report (DMR). DMRs must be submitted during each quarter even if there are no discharge(s) from your facility.

Ecology is tracking DMR submittals and follows up with permittees that have not submitted required DMRs.

According to Ecology's records, you have not submitted First, Second, and Third Quarter DMRs 2016 DMR and are currently in violation of your ISGP.

According to the permit:

- DMRs must be submitted to Ecology according to the following schedule:

Reporting Period	Months	DMR Due Date
1st Quarter	January - March	May 15, 2016
2nd Quarter	April - June	August 15, 2016
3rd Quarter	July - September	November 15, 2016
4th Quarter	October - December	February 15, 2017

- If your facility did not discharge during a reporting period, you must still submit the required DMR, checking the box for "No Discharge."

If you did not take a sample for a particular quarter, check the appropriate reporting code on the DMR (e.g., no discharge, consistent attainment, analysis not conducted, etc.).

Ecology relies on complete and accurate DMR information to assess your compliance with permit conditions. Each missing DMR is counted as a separate permit violation. Failure to submit DMRs or non-compliance with other conditions of the permit is a violation of the ISGP, and therefore a violation of The Federal Clean Water Act and Chapter 90.48 Revised Code of Washington (RCW) - the State of Washington Pollution Control Act. **Failure to submit DMRs or non-compliance with other conditions of the permit may result in issuance of monetary penalties.** Compliance with this notification does not mean you have complied with all permit conditions.

Please note: DMRs must be submitted electronically by January 1, 2017 using Ecology's Water Quality Permitting Portal - Discharge Monitoring Report application (WQWebDMR), unless a waiver from electronic reporting has been granted (e.g., if a permittee does not have broadband internet access). If a waiver has been granted, reports must be postmarked or delivered to the following address by the due date:

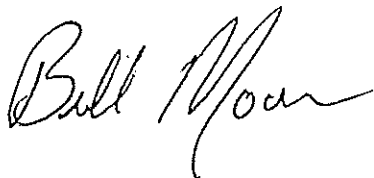
Washington Department of Ecology
Water Quality Program - DMR Violation Response
PO Box 47696
Olympia, WA 98504-7696

To find out more information regarding electronic reporting and to sign up for WQWebDMR go to: <http://www.ecy.wa.gov/programs/wq/permits/paris/webdmr.html>.

If you have questions about how to register for WQWebDMR, contact Ecology's WQWebDMR staff at WQWebPortal@ecy.wa.gov, or (360) 407-7097 (Olympia area), or (800) 633-6193/option 3.

If you believe this letter is in error or if you need clarification or assistance, please contact Clay Keown at clay.keown@ecy.wa.gov or (360) 407-6048.

Sincerely,



Bill Moore, P.E., Manager
Program Development Services Section
Water Quality Program

cc: File, Ecology HQ

April 6, 2016

Leo McMilian
Astro Auto Wrecking
37307 Enchanted Pkwy S
Federal Way, WA 98003-7614

WAR011869
ASTRO AUTOWRECKING
37307 ENCHANTED PKWY S
Federal Way, WA 98003

RE: 2015 Discharge Monitoring Reports

Dear Industrial Stormwater Permittee:

Your facility is covered under the Washington State Department of Ecology's (Ecology) Industrial Stormwater General Permit. This permit requires you to sample the stormwater discharge from your facility and report the results to Ecology on a Discharge Monitoring Report (DMR).

Ecology is tracking DMR submittals and follows up with facilities that have not submitted required DMRs.

According to Ecology's records, you have not submitted First, Third, and Fourth Quarter DMRs, 2015 as required by your Industrial Stormwater General Permit.

According to the permit:

- Discharge Monitoring Reports must be submitted to Ecology according to the following schedule:

Reporting Period	Months	DMR Due Date
1st	January - March	May 15, 2015
2nd	April - June	August 15, 2015
3rd	July - September	November 15, 2015
4th	October - Decmeber	February 15, 2016

- If your facility did not discharge during a reporting period, you must still submit the required DMR, checking the box for "No Discharge."

DMRs must be submitted during each reporting period, even if there is no discharge from the site. ***Please submit all missing DMRs to Ecology no later than May 7, 2016.*** If you do not have stormwater sampling data for a particular quarter, check the appropriate reporting code on the DMR (e.g., no discharge, consistent attainment, analysis not conducted, etc.).

Ecology relies on complete and accurate DMR information to assess your compliance with permit conditions. ***Each missing DMR is counted as a separate permit violation. Failure to submit DMRs or non-compliance with other conditions of the permit may result in enforcement action by Ecology.*** Compliance with this notification does not mean you have complied with all permit conditions.

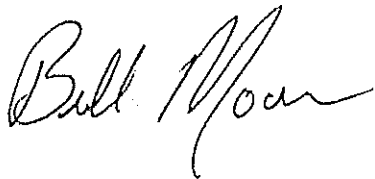
Please note: DMRs must be submitted electronically using Ecology's Water Quality Permitting Portal - Discharge Monitoring Report (DMR) application, unless a waiver from electronic reporting has been granted (e.g., if a Permittee does not have broadband internet access). If a waiver has been granted, reports must be postmarked or delivered to the following address by the due date:

Department of Ecology
Water Quality Program - DMR Violation Response
PO Box 47696
Olympia, WA 98504-7696

To sign up for WQWebDMR go to: <http://www.ecy.wa.gov/programs/wq/permits/paris/webdmr.html>. If you have questions about how to register for WQWebDMR, contact Ecology's WQWebDMR staff at WQWebPortal@ecy.wa.gov, or (360) 407-7097 (Olympia area), or (800) 633-6193/ option 3.

If you believe this letter is in error or if you need clarification or assistance, please contact Clay Keown at clay.keown@ecy.wa.gov or (360) 407-6048.

Sincerely,



Bill Moore, P.E., Manager
Program Development Services Section
Water Quality Program

cc: File, Ecology HQ



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

June 21, 2018

Leo McMilian
Astro Auto Wrecking
37307 Enchanted Pkwy S
Federal Way, WA 98003-7614

WAR011869
ASTRO AUTOWRECKING
37307 ENCHANTED PKWY S
Federal Way, WA 98003

RE: 2017 Discharge Monitoring Reports - FIRST NOTICE

Dear Industrial Stormwater Permittee:

Your facility is covered under the Washington State Department of Ecology's (Ecology) Industrial Stormwater General Permit (ISGP). This permit requires you to sample the stormwater discharge(s) from your facility and report the results to Ecology on a Discharge Monitoring Report (DMR). DMRs must be submitted during each quarter even if there are no discharge(s) from your facility.

Ecology is tracking DMR submittals and follows up with permittees that have not submitted required DMRs.

According to Ecology's records, you have not submitted First, Second, Third, and Fourth Quarters 2017 DMRs and are currently in violation of your ISGP.

According to the permit:

- DMRs must be submitted to Ecology according to the following schedule:

Reporting Period	Months	DMR Due Date
1st Quarter	January - March	May 15, 2017
2nd Quarter	April - June	August 15, 2017
3rd Quarter	July - September	November 15, 2017
4th Quarter	October - December	February 15, 2018

- If your facility did not discharge during a reporting period, you must still submit the required DMR, checking the box for "No Discharge."

Leo McMilian
June 21, 2018
Page 2

If you did not take a sample for a particular quarter, check the appropriate reporting code on the DMR (e.g., no discharge, consistent attainment, analysis not conducted, etc.).

Ecology relies on complete and accurate DMR information to assess your compliance with permit conditions. Each missing DMR is counted as a separate permit violation. Failure to submit DMRs or non-compliance with other conditions of the permit is a violation of the ISGP, and therefore a violation of The Federal Clean Water Act and Chapter 90.48 Revised Code of Washington (RCW) - the State of Washington Pollution Control Act. **Failure to submit DMRs or non-compliance with other conditions of the permit may result in issuance of monetary penalties.** Compliance with this notification does not mean you have complied with all permit conditions.

Please note: DMRs must be submitted electronically by July 22, 2018 using Ecology's Water Quality Permitting Portal - Discharge Monitoring Report application (WQWebDMR), unless a waiver from electronic reporting has been granted (e.g., if a permittee does not have broadband internet access). If a waiver has been granted, reports must be postmarked or delivered to the following address by the due date:

Washington Department of Ecology
Water Quality Program - DMR Violation Response
PO Box 47696
Olympia, WA 98504-7696

To find out more information regarding electronic reporting and to sign up for WQWebDMR go to: <http://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Water-quality-permits-guidance/WQWebPortal-guidance#dmr>

If you have questions about how to register for WQWebDMR, contact Ecology's WQWebDMR staff at WQWebPortal@ecy.wa.gov, or (800) 633-6193/ option 3.

If you believe this letter is in error or if you need clarification or assistance, please contact Clay Keown at clay.keown@ecy.wa.gov or (360) 407-6048.

Sincerely,



Vincent McGowan, Manager
Program Development Services Section
Water Quality Program

cc: File, Ecology HQ



STATE OF WASHINGTON
 DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

September 20, 2018

Leo McMilian
 Astro Auto Wrecking
 37307 Enchanted Pkwy S
 Federal Way, WA 98003-7614

WAR011869
 ASTRO AUTOWRECKING
 37307 ENCHANTED PKWY S
 Federal Way, WA98003

RE: 2017 Discharge Monitoring Reports - SECOND NOTICE

Dear Industrial Stormwater Permittee:

Your facility is covered under the Washington State Department of Ecology's (Ecology) Industrial Stormwater General Permit (ISGP). This permit requires you to sample the stormwater discharge from your facility and report the results to Ecology on a Discharge Monitoring Report (DMR). DMRs must be submitted during each quarter, even if there are no discharge(s) from the site.

Ecology is tracking DMR submittals and follows up with permittees that have not submitted required DMRs.

According to Ecology's records, you have not submitted First, Second, Third, and Fourth Quarters 2017 DMRs and are currently in violation of your ISGP.

According to the permit:

- 2017 DMR due dates are as follows:

Reporting Period	Months	DMR Due Date
1st Quarter	January - March	May 15, 2017
2nd Quarter	April - June	August 15, 2017
3rd Quarter	July - September	November 15, 2017
4th Quarter	October - December	February 15, 2018

- If your facility did not discharge during a reporting period, you must still submit the required DMR, checking the box for "No Discharge."

Leo McMilian
September 20, 2018
Page 2

If you did not take a sample for a particular quarter, check the appropriate reporting code on the DMR (e.g. no discharge, consistent attainment, analysis not conducted, etc.).

Ecology relies on complete and accurate DMR information to assess your compliance with permit conditions. Each missing DMR is counted as a separate permit violation. Failure to submit these DMR(s) or non-compliance with other conditions of the permit is a violation of The Federal Clean Water Act and Chapter 90.48 Revised Code of Washington (RCW)–the State of Washington Pollution Control Act. **Failure to submit these missing DMR(s) or non-compliance with other permit requirements may result in issuance of monetary penalties.** Compliance with this notification does not mean you have complied with all permit conditions.

Please note: DMRs must be submitted electronically by October 21, 2018 using Ecology's Water Quality Permitting Portal - Discharge Monitoring Report (DMR) application, unless a waiver from electronic reporting has been granted (e.g., if a Permittee does not have broadband internet access). Permittees unable to submit DMRs electronically must contact Ecology to request a waiver and obtain instructions on how to obtain a paper copy DMR. If a waiver has been granted, DMR(s) must be postmarked or delivered to the following address by the due date:

Washington Department of Ecology
Water Quality Program - DMR Violation Response
PO Box 47696
Olympia, WA 98504-7696

To sign up for Ecology's Electronic DMR System (WQWebDMR) go to:
<http://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Water-quality-permits-guidance/WQWebPortal-guidance#dmr>

If you have questions about how to register for WQWebDMR, contact Ecology's WQWebDMR staff at WQWebPortal@ecy.wa.gov, or (800) 633-6193/ option 3.

If you believe this letter is in error or if you need clarification or assistance, please contact Clay Keown at clay.keown@ecy.wa.gov or (360) 407-6048.

Sincerely,



Vincent McGowan, Manager
Program Development Services Section
Water Quality Program

cc: File, Ecology HQ

ATTACHMENT F

Post Inspection E-mails

Levo, Brian

From: Levo, Brian
Sent: Tuesday, May 21, 2019 4:00 PM
To: leormcmilian@gmail.com
Subject: EPA Inspection 5/20/19 - Follow-up request for files

Mr. McMilian,

Per our discussion yesterday, I'm requesting that you provide copies of the following documents for my review (e-mailed to me in digital format, preferably) since these files were not readily available at the time of inspection. These files will be used in reviewing compliance under the WA Department of Ecology Industrial Stormwater General Permit (WAR011869):

- Stormwater Pollution Prevention Plan (SWPPP) – the current version including the SWPPP map(s).
- All of your Site Inspection Reports from January 2015 to present.
- All Annual Reports from January 2015 to present.
- Any Noncompliance Reports submitted to the Department of Ecology from January 2015 to present.
- Discharge Monitoring Reports (DMRs) for all samples collected from January 2015 to present.
- Lab Reports for all samples collected from January 2015 to present.
- Chain-of-Custodies (COCs) associated with samples collected from January 2015 to present that were delivered to a lab.
- Any logs/records associated with SWPPP/Stormwater trainings conducted from January 2015 to present.
- The Invoice associated with your most recent shipment to the WA Dept. of Ecology mercury switch recycling program.
- Engineering plans associated with the rain garden drainage system (including engineer certifications).
- Engineering plans associated with the cement slab paving project & Oil-Water Separator system (including engineer certifications).
 - Instruction manual(s) associated with the Oil-Water Separator
- Any documents that show the financial costs associated with the installation of the rain garden drainage system, cement slab paving, and Oil-Water Separator.

Please send me these files as soon as you're able but no later than May 31st, 2019.

Thank you for your assistance with this inspection and feel free to contact me with any questions.

Brian Levo
NPDES Enforcement Coordinator
Surface Water Enforcement Section
U.S. Environmental Protection Agency - Region 10
1200 6th Avenue, Suite 155, MS 20-C04, Seattle, WA 98101
Phone: (206) 553-1816, Fax: (206) 553-4743

Levo, Brian

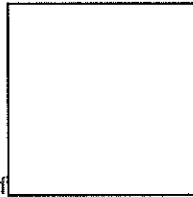
From: Levo, Brian
Sent: Tuesday, June 18, 2019 8:17 AM
To: Leo Mc Milian
Subject: RE: Message received

Hi Sherry, I'm confirming receipt of this message and the PDF attachment.

Brian Levo
NPDES Enforcement Coordinator
Surface Water Enforcement Section
U.S. Environmental Protection Agency - Region 10
1200 6th Avenue, Suite 155, MS 20-C04, Seattle, WA 98101
Phone: (206) 553-1816, Fax: (206) 553-4743

From: Leo Mc Milian <leormcmilian@gmail.com>
Sent: Monday, June 17, 2019 2:04 PM
To: Levo, Brian <Levo.Brian@epa.gov>
Subject:

Astro Auto Wrecking Stormwater



2018 Receipts for concrete Stormwater.pdf

Brian, Today I mailed the flash drives including what you asked for but these attached receipts did not get on the drive so I emailing separately. They are for the concrete work done in the yard for Stormwater. You can request anything else you need at 253-838-2800 Sherry McMilian
Or also request by email.

EXHIBIT 5

From: [Fidis, Alexander](#)
To: [Leo McMilian; leormcmilian@gmail.com](#)
Cc: [Andrews, Raymond](#)
Subject: Status of information for EPA
Date: Monday, November 23, 2020 1:00:00 PM

Mr. McMilian –

We were expecting to receive information from you on November 13th concerning the allegations described in EPA's opportunity to confer email dated September 21, 2020. Can you provide an update on your progress and a date when you expect to submit any information. If you no longer plan to submit anything I would recommend we schedule a time to discuss the next steps in this enforcement case.

Alex Fidis
Assistant Regional Counsel
EPA Region 10
(206) 553-4710

EXHIBIT 6

From: [Fidis, Alexander](#)
To: [Leo Mc Milian](#); astro37307@outlook.com
Bcc: [Andrews, Raymond](#)
Subject: RE: Status of information for EPA
Date: Thursday, January 07, 2021 12:46:00 PM
Attachments: [AAW_ViolationsList.2020.09.11.pdf](#)

Leo & Christina-

Christina, thank you for your time on the phone this morning and your explanation of work being done to come into compliance with your stormwater permit. As we discussed, I recommend reaching out to the Department of Ecology for assistance with the electronic DMR filings. If you need any additional compliance assistance please let me know and I can put you in touch with EPA staff that can provide assistance.

I still need you to respond to EPA's penalty demand of \$47,500 provided on December 9, 2020. The proposed penalty is based on the alleged violations identified in the attached document and the application of EPA's Industrial Stormwater Penalty Policy which is available at: <https://www.epa.gov/enforcement/supplemental-guidance-1995-interim-clean-water-act-settlement-penalty-policy-violations>. If we are able to reach an agreement on an appropriate penalty we can resolve the matter with a settlement agreement. If not, EPA will proceed with filing and administrative complaint.

Please provide a response to EPA's penalty demand by January 15th. Based on your response we can arrange a time to discuss next steps. If you would like to discuss this matter I am available at 971-221-7813.

Alex Fidis, Assistant Regional Counsel, EPA Region 10

From: Leo Mc Milian <leormcmilian@gmail.com>
Sent: Monday, December 28, 2020 4:51 PM
To: Fidis, Alexander <Fidis.Alexander@epa.gov>
Subject: Re: Status of information for EPA

12/23/20

Department of Ecology

RE: Violation List

Astro Auto Wrecking

Leo McMilian

My Company has been working on fixing the Violations that were stated in our report . We have tried to hire help with correcting this matter but due to COVID and all the Health issues going on right now it has been

extremely hard due to a lot of people not working and some companies closing until further notice as well as I have had to lay off 90% of my staff. However we have completed 95% of what is noted in your Violation List. We are asking for an extension at least until February or March. Hopefully, then more companies will be up and running at full capacity and my staff will be able to return as well to help with this process. If you have any questions feel free to give me a call at 253.838.2800 or my Assistant Christina at 206.775.1241. Thank you for your time

Thank You
Leo McMilian

On Wed, Dec 9, 2020 at 7:12 AM Fidis, Alexander <Fidis.Alexander@epa.gov> wrote:

Mr. McMilian –

During our conference call on October 29th you agreed to provide EPA by November 13th additional information related to the alleged violations observed during our inspection of the Astro Auto Wrecking facility. Despite a follow up request we haven't received any information and at this point are proceeding under the assumption that you no longer plan to provide us with any information for our consideration.

EPA is proposing a penalty of \$47,500 to settle this case. The penalty would resolve the violations EPA documented during its inspection and discussed on our October 29th call. For your convenience, I'm attaching the summary list of violations that we initially provided as an attachment to the September 21st Opportunity to Confer email. EPA's proposed penalty is based on these violations and application of the Industrial Stormwater Penalty Policy which is available at: <https://www.epa.gov/enforcement/supplemental-guidance-1995-interim-clean-water-act-settlement-penalty-policy-violations>

If we are able to quickly settle the case with a consent agreement the Penalty Policy allows for an additional penalty reduction of 10%. If we are unable to settle the case EPA would proceed with filing an administrative complaint to enforce the violations and assess a penalty.

Please provide a response to this email by December 18th. If you would like to schedule a time to discuss the enforcement case please contact me by email or at (206) 553-4710.

Alex Fidis
Assistant Regional Counsel
EPA Region 10

From: Fidis, Alexander
Sent: Monday, November 23, 2020 1:00 PM
To: Leo McMilian <astroautowrecking01@gmail.com>; leormcmilian@gmail.com
Cc: Andrews, Raymond <andrews.raymond@epa.gov>
Subject: Status of information for EPA

Mr. McMilian –

We were expecting to receive information from you on November 13th concerning the allegations described in EPA's opportunity to confer email dated September 21, 2020. Can you provide an update on your progress and a date when you expect to submit any information. If you no longer plan to submit anything I would recommend we schedule a time to discuss the next steps in this enforcement case.

Alex Fidis
Assistant Regional Counsel
EPA Region 10
(206) 553-4710

EXHIBIT 7

From: [Fidis, Alexander](#)
To: astro37307@outlook.com; [Leo Mc Milian](#); [Leo McMilian](#)
Cc: [Andrews, Raymond](#)
Subject: Notice of intent to file administrative complaint
Date: Tuesday, February 16, 2021 3:45:00 PM
Attachments: [AAW_ViolationsList.2020.09.11.pdf](#)
Importance: High

Mr. McMilian –

This email provides notice that EPA intends to proceed with filing an administrative complaint against Astro Auto Wrecking, LLC for violations of its industrial stormwater permit. The violations were summarized in EPA's September 14, 2020 email providing Astro Auto Wrecking an opportunity to confer and potentially settle the allegations prior to EPA filing a complaint. An opportunity to confer meeting was scheduled and held by phone on October 29th. During this meeting, EPA described the alleged violations at length and offered Astro Auto Wrecking the opportunity to respond to the violations and provide additional information by November 13th. On November 23rd, EPA sent a reminder and request for a status update on the submission of information related to the violations. After receiving no response, EPA notified Astro Auto Wrecking on December 9, 2020 that it was proceeding under the assumption the company no longer intended to provide information and proposed to settle the matter for a penalty of \$47,500. On December 23, 2020, EPA received a response discussing the company's efforts to come into compliance. The response did not address EPA's proposed settlement offer. On January 7, 2021, EPA again requested that the company respond to the settlement offer by January 15, 2021. This email provides one last opportunity for you to respond to the settlement offer **by no later than Friday February 26, 2021**. If no response is received EPA intends to proceed with filing an administrative complaint seeking the assessment of a penalty for the violations summarized in the attached document and discussed during our October phone call. If you have any questions or wish to discuss this matter please contact me at fidis.alexander@epa.gov or by phone at (206) 553-4710.

Alex Fidis
Assistant Regional Counsel
EPA Region 10

EXHIBIT 8

From: [leo mcmilian](#)
To: [Fidis, Alexander](#)
Subject: Violations response request
Date: Thursday, February 25, 2021 3:27:46 PM

2/18/2021

Department of Ecology

Re: Violations List

Astro Auto Wrecking

Leo Mc Milian

Violation 1. Failure to Use Secondary Containment

My Company has corrected the Violation and we DO have Secondary Containment on site. Pictures will follow.

Violation 2. Failure to Implement Best Management Practices

-

My Company has corrected the Violation and My Staff, and I are following ALL BMPs. All vehicles are inspected and maintained on a monthly basis. I have provided containment equipment for all transfer operations as well as absorbents for any vehicle that may leak. All vehicles are drained in a covered area on a cement floor before they are allowed to be stored in the yard, we also follow the guidelines of our SWPPP. Pictures will follow.

Violation 3. Failure to Keep All Dumpsters Closed

My Company has corrected the Violation and I have supplied lids and tarps for all dumpsters when not in use. Pictures will follow.

Violation 4. Failure to Maintain Records On-Site

-

I provided my Lawyer with a copy of my companies EPA records as well as my company having the originals on-site. All records have never left the premises located at 37307 Enchanted Pkwy S Federal Way WA 98003 and we are happy to provide you with a copy of our SWPPP. We have a SWPPP on site

and have had a SWPPP on site since 2011 we will send you a copy of the book I say book because it is over 100 pages in our SWPPP binder.

Violation 5. Failure to Maintain a Complete Stormwater Pollution Prevention Plan (SWPPP)

My company has always provided a site map in our SWPPP as well as a blown-up site map n site we can send you a picture of our site map.

Violation 6. Failure to Maintain a Complete Site Map

-
My Company has always provided a Site Map in our SWPPP. Documentation can be provided per your request.

Violation 7. Failure to conduct/Document Annual SWPPP Training

-
I have provided My staff with SWPPP Training and have continued to keep record as to date, time, who performed the training and who attended.

Violation 8. Failure to Accurately and Completely Fill Out Monthly Inspections Reports

-
All records are current, accurate and filled out properly per EPA requirements. Documentations can be provided per your request.

Violation 9. Failure to Conduct Quarterly Discharge Sampling

-
There is no discharge found when conducting inspection in order to require a monthly discharge sampling report however we have a water sampling kit on site ready to go if we find discharge.

-
Violation 10. DMRs Incomplete/Not Submitted

-

My company has been reporting the DMRs and they are true, accurate, up to date and the information is on-site along with all other records. Documentation can be provided per your request.

I received the email stating that you would like to fine me \$47,000 however I have spent thousands of dollars to keep this property in compliance and to keep from polluting the water. The car crusher is on a cement slab and we have installed a water oil separator to separate the water and oil and it is located behind the main building processing area. a roof under a cement slab we have implanted a drainage plan to keep any water from running of property and trying to maintain all water on site. There are some things that we still need to do, and I fell the money you are requesting in fines I can pout towards materials for my staff and I to provide best management practices.

Thank you
Christina Fleming
Astro Auto Wrecking
253-838-2800 Phone
253-874-3022 Fax
Sent from [Mail](#) for Windows 10

EXHIBIT 9

From: [Fidis, Alexander](#)
To: [R10_RHC](#)
Cc: [Leo Mc Milian](#); [Leo McMilian](#)
Subject: In the Matter of: Astro Auto Wrecking, LLC, U.S. EPA Docket No. CWA-10-2021-0097; Administrative Complaint
Date: Wednesday, April 28, 2021 3:55:00 PM
Attachments: [Signed AAW Complaint 4 19 21.pdf](#)
[STANDING ORDER Region 10 Electronic Service \(002\).pdf](#)
[STANDING ORDER Region 10 Part 22 EFS.pdf](#)
[Complaint Certificate of Service 4 28 21 signed.pdf](#)

Submitting Party Contact Information:

Alexander Fidis
Assistant Regional Counsel
U.S. EPA Region 10
1200 6th Avenue, Suite 155, ORC-11-C07
Seattle, Washington 98101
(206) 553-4710
Fidis.alexander@epa.gov

EXHIBIT 10

USPS TRACKING #



SEATTLE WA 98101

30 APR 2021 PM 5 L



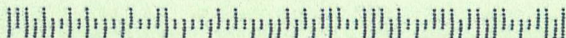
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 4890 9032 0729 01

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

Alex Fids
US EPA
1200 6th Ave, Suite 155, 11-007
Seattle, WA
98101



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Astro Auto Wrecking
 37307 Enchanted Parkway South
 Federal Way, Washington
 98003-7614



9590 9402 4890 9032 0729 01

2. Article Number (Transfer from service label)

7019 2280 0001 9008 7275

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X [Signature] Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

4.30.21

D. Is delivery address different from item 1?
 If YES, enter delivery address below:

Yes No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Certified Mail® Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

EXHIBIT 11

From: [Andrews, Raymond](#)
To: vincent.mcgowan@ecy.wa.gov
Cc: [Jencius, Michele](#); [Levo, Brian](#); [Fidis, Alexander](#); akol461@ecy.wa.gov
Subject: EPA Formal Action Notification Letter
Date: Wednesday, May 05, 2021 9:12:37 AM
Attachments: [AAW State Notice Letter Complaint \(002\).pdf](#)

Dear Mr. McGowan.

Please find attached EPA's official notice of formal action taken within the state of Washington.

Thank you and have a good day!

Sincerely,

Raymond Andrews
Inspector
Field, Data, & Drinking Water Enforcement Section
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 155, 20-C04
Seattle, WA 98101
(206) 553-4252

Scientia est potentia!

EXHIBIT 12

From: [R10_RHC](#)
To: [Fidis, Alexander](#)
Subject: RE: Question regarding docket CWA-10-2021-0097 (In the Matter of Astro Auto Wrecking, LLC)
Date: Wednesday, December 01, 2021 6:38:23 AM

Hi,

I just checked the database and nothing has been filed. I further checked the RHC inbox and nothing is in there either.

Thank you,

Amy Gonzales | Regional Hearing Clerk
United States Environmental Protection Agency, Region 7
913.551.7972 | 11201 Renner Boulevard, Lenexa, Kansas 66219
gonzales.amy@epa.gov

From: Fidis, Alexander <Fidis.Alexander@epa.gov>
Sent: Tuesday, November 30, 2021 5:17 PM
To: R10_RHC <R10_RHC@epa.gov>
Subject: Question regarding docket CWA-10-2021-0097 (In the Matter of Astro Auto Wrecking, LLC)

Hello Regional Hearing Clerk –

As of this morning the online docket for the above listed case shows that no answer to the complaint has been filed. Can you confirm as best you are able to we haven't received an answer in this case? Thank you for your assistance.

Alex Fidis
Assistant Regional Counsel
EPA Region 10
(206) 553-4710

EXHIBIT 13

From: [Fidis, Alexander](#)
To: [Leo McMilian](#); astro37307@outlook.com; [Leo Mc Milian](#)
Subject: In the Matter of Astro Auto Wrecking, LLC, Docket No. CWA-10-2021-0097
Date: Tuesday, July 20, 2021 3:57:00 PM
Attachments: [1. Astro Auto Wrecking Complaint.pdf](#)
[1a. Astro Auto Wrecking Complaint Certificate of Service.pdf](#)
[40 CFR Part 22 Consolidated Rules of Practice.pdf](#)
[Astro Auto Wrecking Green Card.pdf](#)
[STANDING ORDER Region 10 Part 22 EFS.pdf](#)

Dear Mr. McMilian –

On April 28, 2021, EPA filed the attached complaint against Astro Auto Wrecking, LLC for violations of the Washington State Industrial General Stormwater Permit. Service of the complaint was completed on April 30, 2021. The consolidated rules of practice, at 40 CFR 22.15(a), required Astro Auto Wrecking to file an answer to the complaint on or around June 1, 2021. A copy of the consolidated rules was provided with the served complaint and is attached here for your convenience. To date no answer has been filed. If no answer is filed by August 6, 2021, EPA intends to move for a default judgment of liability against Astro Auto Wrecking. If you have any questions or wish to discuss this matter please contact me at fidis.alexander@epa.gov or 206-553-4710.

Sincerely,

Alex Fidis
Assistant Regional Counsel
EPA Region 10

EXHIBIT 14

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASTE ACTION PROJECT,

Plaintiff,

v.

ASTRO AUTO WRECKING, LLC,

Defendant.

CASE NO. C15-0796-JCC

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter was tried to the Court from February 27, 2017, to March 2, 2017. The claim presented for adjudication was whether Defendant Astro Auto Wrecking was in violation of sections 301(a) and 402 of the Clean Water Act (CWA), 33 U.S.C. §§ 1311(a) and 1342, for failing to comply with the terms and conditions of its National Pollutant Discharge Elimination System (NPDES) permits. After the bench trial and pursuant to Federal Rule of Civil Procedure 52(a), the Court makes the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

1. This is a Clean Water Act (CWA) citizen lawsuit in which Plaintiff Waste Action Project (WAP) alleges that Defendant Astro Auto Wrecking (Astro) violated and continues to violate federal law by failing to comply with numerous provisions of its NPDES permit.
2. Plaintiff Waste Action Project is a non-profit corporation organized under the laws of the State of Washington. It is a membership organization dedicated to protecting and

1 preserving the environment of Washington State, especially the quality of its waters.

2 3. Defendant Astro Auto Wrecking operates a 5.15 acre auto wrecking, recycling, and
3 storage facility in Western Washington, at 37307 Enchanted Parkway South, near Federal
4 Way, Washington. The facility comprises a shop with indoor repair areas and two roofed
5 but open-air vehicle bays, a mobile outdoor car crusher, auto fluid storage areas, scrap
6 piles, and vehicle storage. The entry to the facility is paved with asphalt, and the roofed
7 vehicle bays are concrete. The other outdoor areas of the facility are bare soil. Some areas
8 are partially covered by quarry spalls. As part of its typical activities, Astro processes,
9 dismantles, drains, stores, and crushes vehicles. Astro has operated the facility since
10 2000.

11 4. The facility's western property line runs along the top of a ravine. At the bottom of the
12 ravine is the east fork of Hylebos Creek, which is a tributary to the Hylebos Waterway
13 and Commencement Bay of Puget Sound. Testimony at trial established that water flows
14 in the east fork approximately nine months of the year.

15 5. The east fork of Hylebos Creek is listed as impaired for copper, bacteria, and dissolved
16 oxygen under section 303(d) of the CWA. The copper and bacteria listings are in
17 Category 5, the most advanced classification, indicating that data show violations of the
18 relevant state water quality standard that must be addressed with a total maximum daily
19 load ("TMDL") specification or a water quality improvement project.

20 6. Plaintiff presented two witnesses who testified that there are known sources of zinc and
21 copper associated with Astro Auto's operations, including automotive chassis, engines,
22 and other metallic vehicle parts handled and stored outdoors, petroleum products which
23 often contain copper additives, brake pads, and tires.

24 7. The Washington Department of Ecology (Ecology) granted Astro coverage under the
25 Washington Industrial Stormwater General Permit (ISGP) for discharges of stormwater
26 associated with industrial activity from the facility. General permits were issued in 2010

1 and 2015.

2 8. Astro completed its first stormwater pollution prevention plan (SWPPP) in April 2011,
3 which was the effective SWPPP for the facility until it was replaced by the May 2015
4 SWPPP.

5 9. The statute of limitations in this case extends to March 22, 2010.

6 10. Waste Action Project satisfied the CWA's pre-suit notice of intent to sue requirement to
7 maintain this case.

8 11. Prior to trial, the parties stipulated to injunctive relief.

9 12. On December 6, 2016, this Court issued an order granting in part Plaintiff's motion for
10 summary judgment. The Court held that:

- 11 a. WAP had standing to bring suit, including fulfillment of the notice and ongoing
12 violation requirements,
- 13 b. Astro failed to implement the BMPs of a secondary containment for fluid storage
14 from May 18, 2015, onward; a stormwater recycling system from October 31,
15 2015, onward; and keeping the hoods closed on stored junk vehicles from
16 September 1, 2015, onward,
- 17 c. Astro failed to sample stormwater discharge in the first and fourth quarters of
18 2015 and the first quarter of 2016,
- 19 d. Astro failed to indicate compliance status on 40 monthly inspection reports,
- 20 e. Astro failed to prepare 26 reports of non-compliance and remedial actions,
- 21 f. Astro failed to prepare accurate and complete annual reports in 2011 and 2014,
22 and
- 23 g. Astro failed to fulfill corrective action requirements in 2011 and 2014.

24 13. In that order, the Court declined to grant summary judgment as to Astro's alleged

- 25 a. Failure to implement Best Management Practices (BMPs) of a bermed concrete
26 containment pad for the vehicle crusher, cover and containment for waste and

1 scrap piles, grading and containment pads to reduce pollutant exposure, and
2 contaminated stormwater conveyance and treatment,

3 b. Failure to submit Discharge Monitoring Reports (DMRs) in 15 quarters, and

4 c. Violation of the copper effluent limits.

5 14. The Court's order found Astro liable for at least 1,595 distinct violations of the CWA and
6 left the remaining allegations to be decided at trial.

7 Failure to Implement BMPs

8 15. Defendant presented testimony from its expert Mr. Neugebauer, that the berm and trench
9 system he designed was equally as effective as the BMPs required by Astro's SWPPP.

10 However, Plaintiff presented the testimony of Ms. Hickey and Mr. Young, who testified
11 to discharges with an oily sheen and petroleum smell coming from the southern end of
12 the facility.

13 16. Mr. McMilian testified that he believed the water came from the housing development
14 and aggregated on the southern side of Astro's fence. However, given the pictures
15 entered into evidence at trial, and the video showing the water flowing south from under
16 Astro's southern fence, the Court finds it is more likely than not that the water constituted
17 a discharge from the southern end of the facility.

18 17. Mr. McMilian testified that the berm and trench system did not extend to the southern
19 portion of the facility. He testified that he did not extend it to the southern portion of the
20 property because he ran out of money.

21 18. Defendant presented testimony that the oily sheen on the water coming from Astro could
22 have been iron-reducing bacteria, which presents similarly to petroleum on water.

23 However, Plaintiff presented testimony that the water smelled of petroleum. Defendant
24 did not refute this or present testimony that iron-reducing bacteria smell like petroleum
25 products. Combined with the pictures and videos showing an oily sheen, the Court finds
26 that it is more likely than not that the discharges coming from Astro's facility contained

1 petroleum or petroleum byproducts.

2 19. The Court further finds that the measures currently in place are not as equally effective as
3 the BMPs required by the SWPPP, specifically (1) a bermed concrete containment pad
4 for the vehicle crusher, (2) cover and containment for waste and scrap piles, (3) grading
5 and containment pads to reduce pollutant exposure, and (4) contaminated stormwater
6 conveyance and treatment BMPs.

7 Failure to Submit DMRs in 15 Quarters

8 20. Defendant submitted into evidence records of every report that Plaintiff alleged was not
9 filed. Plaintiff's witness from Ecology could not rule out human error in filings before
10 May 2015 and could not explain why, if the reports were sent, Ecology would not have
11 them in the database. The Court finds that Plaintiff did not show it is more likely than not
12 that Astro failed to submit the discharge monitoring reports in 15 quarters.

13 Violation of the Copper Effluent Limits

14 21. The effluent limit for copper is 2.7 parts per billion.

15 22. In 2011, Astro sampled a stormwater discharge that contained copper in the amount of 36
16 parts per billion.

17 23. The only other sample tested for copper listed a concentration of .054 parts per billion.

18 24. Plaintiff's expert testified that this was a reporting error because equipment that measures
19 copper in parts per billion would not be able to detect a reading that low. He testified that
20 he thought the actual result was actually 5.4 or 54 parts per billion (both above the
21 effluent limit) but said that was only speculation.

22 25. Defendant's expert testified that there are laboratories capable of testing for copper
23 measured in parts per trillion, which would be able to explain the reading.

24 26. Neither side submitted the original lab report into evidence.

25 27. Neither side testified as to which lab performed the test and if that lab tested for copper in
26 parts per trillion.

1 28. Plaintiff did not independently test any discharges. The only test results are from 2011
2 and 2014. The Court finds that Plaintiff did not carry its burden of showing more likely
3 than not that the test result from 2014 was erroneous, or that any subsequent discharge
4 exceeded the copper effluent limit.

5 Failure to Sample Discharges in 19 Quarters

6 29. Plaintiff submitted evidence demonstrating that any precipitation event equal to or larger
7 than 0.68 inches in 24 hours is sufficient to produce a discharge of stormwater from the
8 facility that can be sampled. The Court finds this evidence credible.

9 30. Precipitation data from SeaTac International Airport is applicable to the facility and from
10 May 21, 2010 to February 9, 2017, there were at least 115 days with at least 0.68 inches
11 of precipitation measured at SeaTac International Airport.

12 31. Using that data, the Court finds there were 19 quarters in which there would have been at
13 least one discharge that should have been sampled. Astro did not sample any discharges
14 during those 19 quarters.

15 Defendant's Financial Status

16 32. Astro has operated at a loss in every year from 2010 to the present.

17 33. Astro has already expended over \$100,000 attempting to comply with its permit.

18 34. Mr. McMilian testified that the largest fine Astro could sustain and stay in business was
19 \$50,000.

20 35. Plaintiff did not present sufficient evidence to demonstrate Astro financially benefited
21 from its CWA violations.

22 Stipulated Injunctive Relief

23 36. The following injunctive relief is economically and technically feasible for Astro, in the
24 public interest, appropriate to remedy any Clean Water Action violations WAP alleges
25 considering the balance of hardships between the parties, and within the Court's statutory
26 authority to fashion an appropriate equitable remedy under 33 U.S.C. §§ 1365(a) and (f):

1 a. Astro will comply with the CWA as it relates to discharges of industrial stormwater from
2 the Facility, all conditions of the ISGP and any successor, modified, or replacement NPDES
3 permit. However, nothing in this stipulation section 36 shall be construed to (i) allow WAP
4 to prosecute allegations of a separate CWA violation as a violation of the injunctive relief
5 rather than as a separate claim; or (ii) prejudice WAP in any separate prosecution of
6 allegations of separate CWA violations at the facility;

7 b. Not later than March 31, 2018, Astro will install (i) an impervious concrete pad
8 surrounded by a concrete berm for areas where vehicles are processed and/or drained of
9 fluids; (ii) an impervious concrete pad surrounded by a concrete berm for the car crushing
10 area; and (iii) an oil/water separator consistent with the design prepared for Astro by Land
11 Technologies dated April 15, 2011, and stamped by registered engineer Paul Musante;

12 c. Unless stormwater infiltration proves "*Complicated*" due to soil contamination or
13 groundwater, as that term is defined in subparagraph (d-ii) of this stipulation section 36,
14 Astro will, not later than March 31, 2019, complete installation of stormwater collection,
15 conveyance, and infiltration devices, including a properly engineered infiltration bay, all
16 consistent with the design prepared for Astro by Land Technologies dated April 15, 2011,
17 and stamped by registered engineer Paul Musante;

18 d. Not later than October 31, 2018, Astro will complete the following testing of the installed
19 improvements:

20 (i) collect at least eight (8) soil samples from the upper six inches of soil in the area
21 Astro plans to excavate as part of construction of the infiltration bay described in
22 subparagraph (c) of this stipulation. The eight sample locations will be distributed across the
23 area so as to be representative. Astro may composite the eight samples into no fewer than
24 two samples for laboratory analysis. Astro will have such samples analyzed for pH,
25 conductivity, and the metals, organics, and petroleum hydrocarbons listed in Table 8 of
26 condition S6.C.2.e. of the 2015 General Permit. The analysis will be capable of detecting

1 whether the foregoing pollutants exceed the quantitation levels in Table 8 of the NPDES
2 permit;

3 (ii.) Stormwater infiltration is considered “*Complicated*” for the purposes of this
4 stipulation if (1) any soil sample collected pursuant to subparagraph (d)(i) of this stipulation
5 section 36 exceeds 2015 General Permit thresholds; or (2) groundwater is encountered in the
6 area where Astro Auto plans to construct infiltration facilities;

7 (iii.) If stormwater infiltration at the Facility proves to be Complicated, Astro will
8 notify WAP within fourteen (14) days of receipt of the report or discovery of groundwater
9 that triggers this condition and, within 90 days of providing such notice, will propose and
10 provide to WAP an alternative stormwater treatment system approved by a qualified
11 stormwater professional that will comply with all applicable NPDES permit requirements.
12 Upon joint approval of an alternative treatment system, Astro will install that system no later
13 than May 17, 2019, or, upon joint approval of an alternative infiltration location, Astro will
14 implement the infiltration facilities at the approved location not later than May 17, 2019;

15 e. Following each completion date listed in this section, Astro will permit WAP to enter the
16 Facility to verify completion of any of the tasks listed in subparagraphs (a) through (d) of this
17 stipulation section 36, provided that WAP provides a minimum of seven (7) days’ written
18 notice of said visit and a mutually agreed time for said visit can be established;

19 f. Within six (6) months of completing the tasks listed in subparagraphs (b) and (c) of this
20 stipulation section 36 (and (d) if it becomes applicable), Astro will complete an updated
21 SWPPP and transmit a copy to WAP.

22 //

23 //

24 //

25 //

26 //

1 **II. CONCLUSIONS OF LAW**

- 2 1. The Court has jurisdiction over the parties and the subject matter of this litigation.
- 3 2. Venue is properly set in the United States District Court, Western District of
- 4 Washington pursuant to 28 U.S.C. § 1391, because Astro Auto Wrecking is located in
- 5 this district.
- 6 3. “The citizen plaintiffs in a [CWA] suit are suing as private attorneys general, and they
- 7 seek enforcement of federal law Any benefit from the lawsuit, whether injunctive or
- 8 monetary, inures to the public or to the United States.” *Sierra Club v. Chevron U.S.A.,*
- 9 *Inc.*, 834 F.2d 1517, 1522 (9th Cir. 1987) (quotations omitted).
- 10 4. Plaintiff has standing in this case and complied with the CWA’s requirements for
- 11 maintaining a citizen suit.

12 *Violations of the CWA*

- 13 5. The Court does not accept Astro’s affirmative defense that the berm and trench system
- 14 was equally as effective as the required BMPs.
- 15 6. Astro is in violation of sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and
- 16 1342, for failure to implement the following BMPs required by the SWPPP: (1) a bermed
- 17 concrete containment pad for the vehicle crusher, (2) cover and containment for waste
- 18 and scrap piles, (3) grading and containment pads to reduce pollutant exposure, and (4)
- 19 contaminated stormwater conveyance and treatment BMPs.
- 20 7. The failure to implement these BMPs has persisted at least since the date Astro received
- 21 coverage under the ISGP, May 21, 2010. That is approximately 2,400 days, which
- 22 constitutes 2,400 violations of the CWA.
- 23 8. Astro is in violation of sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and
- 24 1342, for failure to complete a Level 1 corrective action for oil sheen for the fourth
- 25 quarter of 2015. This constitutes one violation of the CWA.
- 26 9. Astro is in violation of sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and

1 1342, for failure to sample stormwater discharge for 19 quarters. This constitutes 19
2 distinct violations of the CWA.

3 10. Plaintiff did not carry its burden to prove by a preponderance of the evidence that Astro
4 failed to submit discharge monitoring reports for 15 quarters. This claim is dismissed
5 with prejudice.

6 11. Plaintiff's claim that Astro violated sections 301(a) and 402 of the CWA, 33 U.S.C.
7 §§ 1311(a) and 1342, by discharging stormwater containing copper in excess of the
8 effluent limit in its NPDES permit fails and is dismissed with prejudice.

9 Remedies

10 12. The Court has broad statutory authority to fashion an appropriate equitable remedy under
11 the CWA. *See* 33 U.S.C. §§ 1365(a) and (f). The CWA "permits the district court to order
12 that relief it considers necessary to secure prompt compliance with the Act." *Weinberger*
13 *v. Romero-Barcelo*, 456 U.S. 305, 320 (1982).

14 13. The central purpose of CWA penalties is deterrence—both to the specific violator and
15 generally to the regulated community. *Catskill Mountains Chapter of Trout Unlimited,*
16 *Inc. v. NYC*, 244 F. Supp. 2d 41, 48 (N.D.N.Y. 2003).

17 14. The CWA authorizes civil penalties up to \$37,500 per day of violation for each violation
18 committed through November 2, 2015, and \$51,570 per day of violation for each
19 violation committed after November 2, 2015. 33 U.S.C. §§ 1319(d), 1365(a); 40 C.F.R.
20 § 19.4.

21 15. Astro is liable for roughly 4,015 violations of the CWA, totaling upwards of \$150 million
22 in fines.

23 16. The Court ORDERS the stipulated injunctive relief outlined in section 36 of the Findings
24 of Fact.

25 17. Although the CWA authorizes the Court to impose a substantial penalty on Astro, a large
26 penalty will only hamper Astro's efforts to comply with the stipulated injunctive relief

1 and implement its Land Technology Plan. Further, a substantial penalty will most likely
2 put Astro out of business. Under different circumstances, the Court would not hesitate to
3 impose a substantial penalty for CWA violations; here, however, a substantial penalty
4 will not further the purposes of the CWA.

5 18. The Court therefore ORDERS a deferred penalty of \$50,000. Astro is to use that \$50,000
6 to fulfill the conditions of the stipulated injunctive relief outlined in section 36 of the
7 Findings of Fact. If, by November 2019, Astro has not fulfilled the conditions of the
8 injunctive relief, the Court will impose the \$50,000 penalty.

9 19. The Court retains jurisdiction over this matter to ensure Astro's compliance with the
10 stipulated injunctive relief.

11 20. Waste Action Project is a substantially prevailing party and entitled to recovery of costs
12 of litigation under 33 U.S.C. § 1365(d).

13 21. The Court ORDERS Plaintiff to file a detailed accounting of these expenses by April 28,
14 2017. If Defendant has any objection to this accounting, it must file it by May 12, 2017.
15 Plaintiff's reply, if any, is due by May 26, 2017. If the Court finds Plaintiff's expenses
16 reasonable, it will order Defendant to pay them in full.

17
18 DATED this 4th day of April, 2017.

19
20
21 

22 John C. Coughenour
23 UNITED STATES DISTRICT JUDGE
24
25
26

EXHIBIT 15

April 6, 2016

Leo McMilian
Astro Auto Wrecking
37307 Enchanted Pkwy S
Federal Way, WA 98003-7614

WAR011869
ASTRO AUTOWRECKING
37307 ENCHANTED PKWY S
Federal Way, WA 98003

RE: 2015 Discharge Monitoring Reports

Dear Industrial Stormwater Permittee:

Your facility is covered under the Washington State Department of Ecology's (Ecology) Industrial Stormwater General Permit. This permit requires you to sample the stormwater discharge from your facility and report the results to Ecology on a Discharge Monitoring Report (DMR).

Ecology is tracking DMR submittals and follows up with facilities that have not submitted required DMRs.

According to Ecology's records, you have not submitted First, Third, and Fourth Quarter DMRs, 2015 as required by your Industrial Stormwater General Permit.

According to the permit:

- Discharge Monitoring Reports must be submitted to Ecology according to the following schedule:

Reporting Period	Months	DMR Due Date
1st	January - March	May 15, 2015
2nd	April - June	August 15, 2015
3rd	July - September	November 15, 2015
4th	October - Decmeber	February 15, 2016

- If your facility did not discharge during a reporting period, you must still submit the required DMR, checking the box for "No Discharge."

DMRs must be submitted during each reporting period, even if there is no discharge from the site. ***Please submit all missing DMRs to Ecology no later than May 7, 2016.*** If you do not have stormwater sampling data for a particular quarter, check the appropriate reporting code on the DMR (e.g., no discharge, consistent attainment, analysis not conducted, etc.).

Ecology relies on complete and accurate DMR information to assess your compliance with permit conditions. ***Each missing DMR is counted as a separate permit violation. Failure to submit DMRs or non-compliance with other conditions of the permit may result in enforcement action by Ecology.*** Compliance with this notification does not mean you have complied with all permit conditions.

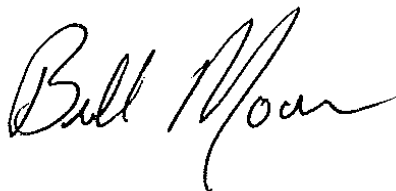
Please note: DMRs must be submitted electronically using Ecology's Water Quality Permitting Portal - Discharge Monitoring Report (DMR) application, unless a waiver from electronic reporting has been granted (e.g., if a Permittee does not have broadband internet access). If a waiver has been granted, reports must be postmarked or delivered to the following address by the due date:

Department of Ecology
Water Quality Program - DMR Violation Response
PO Box 47696
Olympia, WA 98504-7696

To sign up for WQWebDMR go to: <http://www.ecy.wa.gov/programs/wq/permits/paris/webdmr.html>. If you have questions about how to register for WQWebDMR, contact Ecology's WQWebDMR staff at WQWebPortal@ecy.wa.gov, or (360) 407-7097 (Olympia area), or (800) 633-6193/ option 3.

If you believe this letter is in error or if you need clarification or assistance, please contact Clay Keown at clay.keown@ecy.wa.gov or (360) 407-6048.

Sincerely,

A handwritten signature in black ink that reads "Bill Moore". The signature is written in a cursive, flowing style.

Bill Moore, P.E., Manager
Program Development Services Section
Water Quality Program

cc: File, Ecology HQ



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

April 6, 2017

Leo McMilian
Astro Auto Wrecking
37307 Enchanted Pkwy S
Federal Way, WA 98003-7614

WAR011869
ASTRO AUTOWRECKING
37307 ENCHANTED PKWY S
Federal Way, WA98003

RE: 2016 Discharge Monitoring Reports - FINAL NOTICE

Dear Industrial Stormwater Permittee:

Your facility is covered under the Washington State Department of Ecology's (Ecology) Industrial Stormwater General Permit (ISGP). This permit requires you to sample the stormwater discharge(s) from your facility and report the results to Ecology on a Discharge Monitoring Report (DMR). DMRs must be submitted during each quarter even if there are no discharge(s) from your facility.

Ecology is tracking DMR submittals and follows up with permittees that have not submitted required DMRs.

According to Ecology's records, you have not submitted First, Second, Third, and Fourth Quarter DMRs 2016 DMR and are currently in violation of your ISGP.

According to the permit:

- DMRs must be submitted to Ecology according to the following schedule:

Reporting Period	Months	DMR Due Date
1st Quarter	January - March	May 15, 2016
2nd Quarter	April - June	August 15, 2016
3rd Quarter	July - September	November 15, 2016
4th Quarter	October - December	February 15, 2017

- If your facility did not discharge during a reporting period, you must still submit the required DMR, checking the box for "No Discharge."

If you did not take a sample for a particular quarter, check the appropriate reporting code on the DMR (e.g., no discharge, consistent attainment, analysis not conducted, etc.).

Ecology relies on complete and accurate DMR information to assess your compliance with permit conditions. Each missing DMR is counted as a separate permit violation. Failure to submit DMRs or non-compliance with other conditions of the permit is a violation of the ISGP, and therefore a violation of The Federal Clean Water Act and Chapter 90.48 Revised Code of Washington (RCW) - the State of Washington Pollution Control Act. **Failure to submit DMRs or non-compliance with other conditions of the permit may result in issuance of monetary penalties.** Compliance with this notification does not mean you have complied with all permit conditions.

Please note: DMRs must be submitted electronically using Ecology's Water Quality Permitting Portal - Discharge Monitoring Report application (WQWebDMR), unless a waiver from electronic reporting has been granted (e.g., if a permittee does not have broadband internet access). If a waiver has been granted, reports must be postmarked or delivered to the following address by the due date:

Washington Department of Ecology
Water Quality Program - DMR Violation Response
PO Box 47696
Olympia, WA 98504-7696

To find out more information regarding electronic reporting and to sign up for WQWebDMR go to: <http://www.ecy.wa.gov/programs/wq/permits/paris/webdmr.html>.

If you have questions about how to register for WQWebDMR, contact Ecology's WQWebDMR staff at WQWebPortal@ecy.wa.gov or (800) 633-6193/ option 3.

If you believe this letter is in error or if you need clarification or assistance, please contact Clay Keown at clay.keown@ecy.wa.gov or (360) 407-6048.

Sincerely,



Bill Moore, P.E., Manager
Program Development Services Section
Water Quality Program

By **CERTIFIED MAIL NUMBER** 91 7199 9991 7037 1648 3272

cc: File, Ecology HQ



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

June 21, 2018

Leo McMilian
Astro Auto Wrecking
37307 Enchanted Pkwy S
Federal Way, WA 98003-7614

WAR011869
ASTRO AUTOWRECKING
37307 ENCHANTED PKWY S
Federal Way, WA 98003

RE: 2017 Discharge Monitoring Reports - FIRST NOTICE

Dear Industrial Stormwater Permittee:

Your facility is covered under the Washington State Department of Ecology's (Ecology) Industrial Stormwater General Permit (ISGP). This permit requires you to sample the stormwater discharge(s) from your facility and report the results to Ecology on a Discharge Monitoring Report (DMR). DMRs must be submitted during each quarter even if there are no discharge(s) from your facility.

Ecology is tracking DMR submittals and follows up with permittees that have not submitted required DMRs.

According to Ecology's records, you have not submitted First, Second, Third, and Fourth Quarters 2017 DMRs and are currently in violation of your ISGP.

According to the permit:

- DMRs must be submitted to Ecology according to the following schedule:

Reporting Period	Months	DMR Due Date
1st Quarter	January - March	May 15, 2017
2nd Quarter	April - June	August 15, 2017
3rd Quarter	July - September	November 15, 2017
4th Quarter	October - December	February 15, 2018

- If your facility did not discharge during a reporting period, you must still submit the required DMR, checking the box for "No Discharge."

Leo McMilian

June 21, 2018

Page 2

If you did not take a sample for a particular quarter, check the appropriate reporting code on the DMR (e.g., no discharge, consistent attainment, analysis not conducted, etc.).

Ecology relies on complete and accurate DMR information to assess your compliance with permit conditions. Each missing DMR is counted as a separate permit violation. Failure to submit DMRs or non-compliance with other conditions of the permit is a violation of the ISGP, and therefore a violation of The Federal Clean Water Act and Chapter 90.48 Revised Code of Washington (RCW) - the State of Washington Pollution Control Act. **Failure to submit DMRs or non-compliance with other conditions of the permit may result in issuance of monetary penalties.** Compliance with this notification does not mean you have complied with all permit conditions.

Please note: DMRs must be submitted electronically by July 22, 2018 using Ecology's Water Quality Permitting Portal - Discharge Monitoring Report application (WQWebDMR), unless a waiver from electronic reporting has been granted (e.g., if a permittee does not have broadband internet access). If a waiver has been granted, reports must be postmarked or delivered to the following address by the due date:

Washington Department of Ecology
Water Quality Program - DMR Violation Response
PO Box 47696
Olympia, WA 98504-7696

To find out more information regarding electronic reporting and to sign up for WQWebDMR go to: <http://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Water-quality-permits-guidance/WQWebPortal-guidance#dmr>

If you have questions about how to register for WQWebDMR, contact Ecology's WQWebDMR staff at WQWebPortal@ecy.wa.gov, or (800) 633-6193/ option 3.

If you believe this letter is in error or if you need clarification or assistance, please contact Clay Keown at clay.keown@ecy.wa.gov or (360) 407-6048.

Sincerely,



Vincent McGowan, Manager
Program Development Services Section
Water Quality Program

cc: File, Ecology HQ



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

September 20, 2018

Leo McMilian
Astro Auto Wrecking
37307 Enchanted Pkwy S
Federal Way, WA 98003-7614

WAR011869
ASTRO AUTOWRECKING
37307 ENCHANTED PKWY S
Federal Way, WA98003

RE: 2017 Discharge Monitoring Reports - SECOND NOTICE

Dear Industrial Stormwater Permittee:

Your facility is covered under the Washington State Department of Ecology's (Ecology) Industrial Stormwater General Permit (ISGP). This permit requires you to sample the stormwater discharge from your facility and report the results to Ecology on a Discharge Monitoring Report (DMR). DMRs must be submitted during each quarter, even if there are no discharge(s) from the site.

Ecology is tracking DMR submittals and follows up with permittees that have not submitted required DMRs.

According to Ecology's records, you have not submitted First, Second, Third, and Fourth Quarters 2017 DMRs and are currently in violation of your ISGP.

According to the permit:

- 2017 DMR due dates are as follows:

Reporting Period	Months	DMR Due Date
1st Quarter	January - March	May 15, 2017
2nd Quarter	April - June	August 15, 2017
3rd Quarter	July - September	November 15, 2017
4th Quarter	October - December	February 15, 2018

- If your facility did not discharge during a reporting period, you must still submit the required DMR, checking the box for "No Discharge."

If you did not take a sample for a particular quarter, check the appropriate reporting code on the DMR (e.g. no discharge, consistent attainment, analysis not conducted, etc.).

Ecology relies on complete and accurate DMR information to assess your compliance with permit conditions. Each missing DMR is counted as a separate permit violation. Failure to submit these DMR(s) or non-compliance with other conditions of the permit is a violation of The Federal Clean Water Act and Chapter 90.48 Revised Code of Washington (RCW)–the State of Washington Pollution Control Act. **Failure to submit these missing DMR(s) or non-compliance with other permit requirements may result in issuance of monetary penalties.** Compliance with this notification does not mean you have complied with all permit conditions.

Please note: DMRs must be submitted electronically by October 21, 2018 using Ecology's Water Quality Permitting Portal - Discharge Monitoring Report (DMR) application, unless a waiver from electronic reporting has been granted (e.g., if a Permittee does not have broadband internet access). Permittees unable to submit DMRs electronically must contact Ecology to request a waiver and obtain instructions on how to obtain a paper copy DMR. If a waiver has been granted, DMR(s) must be postmarked or delivered to the following address by the due date:

Washington Department of Ecology
Water Quality Program - DMR Violation Response
PO Box 47696
Olympia, WA 98504-7696

To sign up for Ecology's Electronic DMR System (WQWebDMR) go to:
<http://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Water-quality-permits-guidance/WQWebPortal-guidance#dmr>

If you have questions about how to register for WQWebDMR, contact Ecology's WQWebDMR staff at WQWebPortal@ecy.wa.gov, or (800) 633-6193/ option 3.

If you believe this letter is in error or if you need clarification or assistance, please contact Clay Keown at clay.keown@ecy.wa.gov or (360) 407-6048.

Sincerely,



Vincent McGowan, Manager
Program Development Services Section
Water Quality Program

cc: File, Ecology HQ



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

June 20, 2018

Leo McMilian
Astro Auto Wrecking
37307 Enchanted Parkway South
Federal Way, WA 98003-7614

Notice of Penalty Docket #	15855
Site Location	37307 Enchanted Parkway South, Federal Way, WA 98003-7614
Penalty Amount	\$3,000.00
Due Date	Within 30 days after receiving this Notice of Penalty

Re: Notice of Penalty

Dear Mr. McMilian:

The Department of Ecology (Ecology) has issued the enclosed Notice of Penalty to Astro Auto Wrecking for violating provisions of:

- Chapter 90.48 Revised Code of Washington (RCW) – Water Pollution Control
- Chapter 173-226 Washington Administrative Code (WAC) – Waste Discharge General Permit Program
- Industrial Stormwater General Permit No. WAR011869

Please read the enclosed Notice of Penalty describing the violation(s) and options for responding to the penalty.

If you have questions please contact Clay Keown at 360-407-6048 or clay.keown@ecy.wa.gov.

Sincerely,

Vincent McGowan, Manger
Program Development Services
Water Quality Program, Headquarters

Enclosures: Notice of Penalty Docket #15855

By certified mail 9489 0090 0027 6066 5215 30

cc: Fiscal-Penalty Desk, Ecology



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF PENALTY)
ASSESSMENT AGAINST)
Astro Auto Wrecking)
Leo McMilian)

NOTICE OF PENALTY
INCURRED AND DUE
PENALTY DOCKET #15855

To: Leo McMilian
Astro Auto Wrecking
37307 Enchanted Parkway South
Federal Way, WA 98003-7614

Notice of Penalty Docket #	15855
Site Location	37307 Enchanted Parkway South, Federal Way, WA 98003-7614
Penalty Amount	\$3,000.00
Due Date	Within 30 days after receiving this Notice of Penalty

The Washington State Department of Ecology (Ecology) has assessed a penalty against Astro Auto Wrecking in the amount of \$3,000.00 for violating provisions of:

- Chapter 90.48 Revised Code of Washington (RCW) – Water Pollution Control
- Chapter 173-226 Washington Administrative Code (WAC) – Waste Discharge General Permit Program
- Industrial Stormwater General Permit No. WAR0011869

Ecology has authority to issue this penalty under RCW 90.48.144 and is basing the penalties on the violations listed in this notice.

DETERMINATION OF VIOLATION(S)

Ecology's determination that violations have occurred is based on the violations listed below.

Violations:

- a. Failure to submit 2nd quarter 2016 DMR.
 - i. DMR was due August 15, 2016.
 - ii. Non-compliance notification sent via USPS on October 4, 2016.
- b. Failure to submit 3rd quarter 2016 DMR.
 - i. DMR was due November 15, 2016.
 - ii. Non-compliance notification sent via USPS on December 1, 2016.
- c. Failure to submit 4th quarter 2016 DMR.
 - i. DMR was due February 15, 2017.
 - ii. Non-compliance notification sent via certified mail on April 6, 2017.
Certified mail was delivered on April 8, 2017.

ELIGIBILITY FOR PAPERWORK VIOLATION WAIVER AND OPPORTUNITY TO CORRECT

Under RCW 34.05.110, small businesses are eligible for a waiver of a first-time paperwork violation and an opportunity to correct other violations. We have made no determination as to whether you meet the definition of a "small business" under this section. However, we have determined that the requirements of RCW 34.05.110 do not apply to the violation(s) due to a conflict with federal law or program requirements, including federal requirements that are a prescribed condition to the allocation of federal funds to the state.

FAILURE TO COMPLY WITH THIS NOTICE OF PENALTY

Continued failure to correct the violations listed in this Notice of Penalty may result in additional, escalated penalties.

OPTIONS FOR RESPONDING TO A NOTICE OF PENALTY

Option 1: Pay the penalty within 30 days after receiving the Notice of Penalty.

Make your payment payable to the *Department of Ecology*. Please include the penalty docket number on your payment.

Mail payment to:

Department of Ecology
Cashiering Unit
PO Box 47611
Olympia, WA 98504-7611

Note: Ecology may take legal action to collect the penalty if you have not paid 30 days after receiving the Notice of Penalty, and have not appealed.

Option 2: Appeal to the PCHB and serve Ecology within 30 days after the date of receipt of the Notice of Penalty.

The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days after the date of receipt of this Notice of Penalty:

- File your appeal and a copy of this Notice of Penalty with the Pollution Control Hearings Board (PCHB) during regular business hours.
- Serve a copy of your appeal and this Notice of Penalty on Ecology in paper form, by mail or in person. E-mail is *not* accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p> <p>Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p> <p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

CONTACT INFORMATION

Please direct all questions about this Notice of Penalty to:

Clay Keown
Department of Ecology
Headquarters
P.O. Box 47696
Olympia, WA 98504-7696

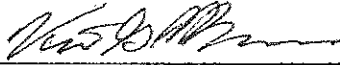
Phone: 360-407-6048
Email: clay.keown@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board**
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice and Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Ecology's Laws, Rules, & Rulemaking Website**
<https://ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking>

Notice of Penalty Docket #15855
June 20, 2018
Page 4

SIGNATURE



Vincent McGowan, Manager
Program Development Services
Water Quality Program
Headquarters

6/19/18

Date

EXHIBIT 16

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASTE ACTION PROJECT,

Plaintiff,

v.

ASTRO AUTO WRECKING, LLC,

Defendant.

CASE NO. C15-0796-JCC

ORDER

This matter comes before the Court on Plaintiff Waste Action Project’s motion for partial summary judgment (Dkt. No. 31). Having thoroughly considered the parties’ briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS in part and DENIES in part the motion for the reasons explained herein.

I. BACKGROUND

A. Regulatory Framework

This case arises out of Plaintiff Waste Action Project’s (WAP) allegation that Defendant Astro Auto Wrecking (Astro) violated and continues to violate the requirements of its Clean Water Act (CWA) permit. (Dkt. No. 31 at 2.) Congress enacted the CWA in 1972 “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). “A cornerstone of the [CWA] is that the ‘discharge of any pollutant’ from a ‘point source’ into navigable waters of the United States is unlawful.” *Ass’n to Protect Hammersley,*

1 *Eld, and Totten Inlets v. Taylor Res., Inc.*, 299 F.3d 1007, 1009 (9th Cir. 2002) (quoting 33
2 U.S.C. §§ 1311(a)). However, a person or company may obtain a National Pollutant Discharge
3 Elimination System (NPDES) permit—which both authorizes and regulates the discharge of
4 pollutants—from either the Environmental Protection Agency (EPA) or an approved state
5 agency. *Id.*; 33 U.S.C. § 1342. In Washington State, the Department of Ecology (Ecology) is
6 responsible for administering the CWA’s NPDES program. *Ass’n to Protect Hammersley*, 299
7 F.3d at 1009–10; 33 U.S.C. § 1342(b); Wash. Rev. Code § 90.48.260.

8 Ecology implements the CWA’s NPDES program through the issuance of “general
9 permits.” *Envtl. Def. Ctr., Inc. v. U.S. Env’tl. Prot. Agency*, 344 F.3d 832, 853 (9th Cir. 2003). “A
10 general permit is a tool by which EPA regulates a large number of similar dischargers” by
11 identifying “the output limitations and technology-based requirements necessary to adequately
12 protect water quality from a class of dischargers.” *Id.* Relevant to this case are Ecology’s 2010
13 and 2015 Industrial Stormwater General Permits (collectively “General Permits”).¹

14 Central to the General Permits is the development and implementation of a facility-
15 specific Stormwater Pollution Prevention Plan (SWPPP). (Dkt. No. 31-7 at 13; Dkt. No. 31-8 at
16 10.) The SWPPP is enforceable under the General Permit. *Id.* A requirement of the General
17 Permits is that the “SWPPP shall specify [best management practices (BMPs)] necessary to
18 provide all known, available, and reasonable methods of prevention, control, and treatment.” *Id.*
19 The SWPPP must also contain any additional BMPs necessary to prevent discharges that violate
20 water quality standards, as well as several other specific requirements. *Id.* Additionally, because
21 Astro is a vehicle recycling facility, it must implement applicable BMPs contained in the
22 Stormwater Management Manual for Western Washington and Ecology’s “Vehicle and Metal
23 Recyclers – A Guide for Implementing the Industrial Stormwater General NPDES Permit (ISGP)
24 Requirements.” (Dkt. No. 31-7 at 13, 16; Dkt. No. 31-8 at 10, 13.)

25
26 ¹ The 2015 General Permit replaced the 2010 General Permit and the two iterations are
substantially similar. *See* Dkt. Nos. 31-6 and 31-7.

1 **B. Astro Auto Wrecking's Facility**

2 Astro operates a 5.15 acre auto wrecking, recycling, and storage facility in a residential
3 area in Western Washington. (Dkt. No. 1 at 4.) As part of its typical activities, Astro processes,
4 dismantles, drains, stores, and crushes vehicles. (Dkt. No. 35-2; Dkt. No. 34 at 7–9.) The facility
5 is comprised of a shop with indoor repair areas and two roofed but open air vehicle bays, an
6 outdoor car crusher, auto fluid storage areas, scrap piles, and crushed or scrapped car storage.
7 (Dkt. No. 34 at 6; Dkt. No. 33-4.) The facility is almost entirely bare soil. (Dkt. No. 34 at 6.) The
8 facility's western property line runs along the top of a ravine. (*Id.* at 11.) At the bottom of the
9 ravine is the east fork of Hylebos Creek, which is a tributary to the Hylebos Waterway and
10 Commencement Bay. (*Id.* at 11, 15; Dkt. 36 at 4–6.)

11 Following an investigation in 2008, Ecology “strongly recommended” that Astro make
12 installing a stormwater containment and treatment system its highest environmental priority.
13 (Dkt. No. 31-1.) Relative to other similar vehicle recyclers in Washington, Ecology ranked Astro
14 in the highest category for risk to human health and/or the environment. (Dkt. No. 31-5.) The
15 City of Federal Way also investigated the facility between 2008 and 2010, which resulted in
16 Ecology issuing Astro a General Stormwater NPDES permit. (Dkt. No. 31-9.) The consultant
17 Astro hired to deal with these issues, Mr. Steven Neugebauer, advised Astro that the stormwater
18 on site was nonpoint-source flow, not a point-source discharge, and thus not subject to regulation
19 under the CWA. (Dkt No. 57 at 5–6.) Astro appealed its permit to the Pollution Control Hearings
20 Board. (*Id.*) Astro eventually dropped the appeal, and the propriety of the permit is not at issue in
21 this case. (Dkt. No. 56 at 2; *see also* Dkt. No. 1.) In April 2011, Astro submitted its SWPPP.
22 (Dkt. No. 54.)

23 In March 2015, WAP provided the required “reasonably specific” notice of intent to sue
24 regarding Astro's alleged General Permits violations. (Dkt. No. 1-1 at 13–24.) After waiting the
25 necessary 60 days to allow Astro to remedy the violations, WAP initiated this lawsuit, alleging
26 that Astro was in violation of several General Permit requirements. (Dkt. No. 1.) WAP now

1 moves for partial summary judgment. (Dkt. No. 31.) WAP first asks this Court to find that it has
2 standing to maintain suit. (*Id.* at 4.) WAP also asks this Court to find Astro liable for the
3 following CWA NPDES permit violations:

- 4 (1) Failure to implement several specific and basic pollution controls required by Astro’s
5 General Permit;
- 6 (2) Violation of the reporting requirements;
- 7 (3) Violation of the corrective action requirements; and
- 8 (4) Violation of the copper effluent limit.

9 (*Id.* at 3.)

10 **II. DISCUSSION**

11 **A. Summary Judgment Standard**

12 The Court shall grant summary judgment if the moving party “shows that there is no
13 genuine dispute as to any material fact and that the [moving party] is entitled to judgment as a
14 matter of law.” Fed. R. Civ. P. 56(a). In making such a determination, the Court views the facts
15 and justifiable inferences to be drawn therefrom in the light most favorable to the nonmoving
16 party. *Anderson v. Liberty Lobby*, 477 U.S. 242, 255 (1986). Once a motion for summary
17 judgment is properly made and supported, the opposing party “must come forward with ‘specific
18 facts showing that there is a genuine issue for trial.’” *Matsushita Elec. Indus. Co. v. Zenith Radio*
19 *Corp.*, 475 U.S. 574, 587 (1986) (quoting Fed. R. Civ. P. 56(e)). Material facts are those that
20 may affect the outcome of the case, and a dispute about a material fact is genuine if there is
21 sufficient evidence for a reasonable jury to return a verdict for the non-moving party. *Anderson*,
22 477 U.S. at 248–49. Conclusory, non-specific statements in affidavits are not sufficient, and
23 “missing facts” will not be “presumed.” *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888–89
24 (1990).

25 **B. Standing**

26 “The [CWA] explicitly allows private citizens to bring enforcement actions against any

1 person alleged to be in violation of federal pollution control requirements,” including the
2 conditions of an NPDES permit. *Ass’n to Protect Hammersley*, 299 F.3d at 1012; 33 U.S.C.
3 §§ 1365(a) and (f); *see also Nw. Env’tl. Advocates v. City of Portland*, 56 F.3d 979, 986 (9th Cir.
4 1995) (“The plain language of CWA § 505 authorizes citizens to enforce *all* permit conditions.”)
5 (emphasis in original). In order to maintain a citizen suit, the plaintiff must have standing and
6 provide the defendant with pre-suit notice. 40 C.F.R. § 135.2; *Friends of the Earth, Inc. v.*
7 *Laidlaw Env’tl. Servs. (TOC), Inc.*, 528 U.S. 167, 174–75 (2000). Additionally, the alleged
8 violations must be ongoing. *Gwaltney of Smithfield, Ltd. V. Chesapeake Bay Foundation, Inc.*,
9 484 U.S. 49, 64 (1987).

10 i. Article III Standing Requirements

11 To satisfy the standing requirements of Article III, a plaintiff must show (1) it has
12 suffered an “injury in fact”; (2) the injury is fairly traceable to the challenged action; and (3) it is
13 likely, as opposed to speculative, that the injury will be redressed by a favorable decision.
14 *Laidlaw*, 528 U.S. at 180–81. An organization may bring suit on behalf of its members if the
15 interests at stake are germane to the organization’s purpose and the claims and relief requested
16 do not require the members’ individualized participation, as is the case here. *Id.* at 181; Dkt. No.
17 36 at 1–2.

18 The injury in fact requirement in environmental cases is satisfied if an individual shows
19 an aesthetic or recreational interest in a particular place and that those interests are impaired by
20 reasonable concerns over a defendant’s conduct. *Ecological Rights Foundation v. Pac. Lumber*
21 *Co.*, 230 F.3d 1141, 1147, 1151 (9th Cir. 2000). A plaintiff is not required to “show there has
22 been actual environmental harm.” *Id.* at 1151.

23 The areas in question here are Commencement Bay, Hylebos Creek, and its seasonal
24 feeder stream, east fork Hylebos Creek. Plaintiff has provided several declarations of its
25 members expressing concerns that Astro’s activities are polluting Hylebos Creek. Defendant
26 responds that “a plaintiff claiming injury from environmental damage must use the area affected

1 by the challenged activity and not an area roughly in the vicinity of it.” (Dkt. No. 54 at 12
2 (*quoting Friends of the Earth, Inc. v. Gaston Copper Recycling Corp.*, 629 F.3d 387, 397 (4th
3 Cir. 2011)). Astro argues that because its facility is miles from Hylebos Creek, and because
4 Plaintiff has not made a “substantive demonstration that the challenged activity is affecting”
5 Hylebos Creek, it has not demonstrated an injury. *Id.* This argument misunderstands the law and
6 ignores the fact that many declarants reported an oily sheen on the water discharged by Astro
7 along with a petroleum smell. (Dkt. Nos. 33 and 37.)

8 Plaintiff does not have to prove Hylebos Creek has been harmed in order to have
9 standing. Further, if the allegation is that pollutants from Astro are making their way into a
10 feeder stream of Hylebos, it is reasonable to be concerned that they would be transported to
11 Hylebos Creek. Plaintiff has demonstrated a sufficient injury in fact. As to the remaining
12 elements, the injury is traceable to the challenged conduct and is redressable by enjoining Astro
13 from violating the CWA and its permits and imposing civil penalties as a deterrent. Plaintiff
14 therefore has Article III standing.

15 ii. Notice requirement

16 Prior to bringing suit under the CWA, a plaintiff must provide “reasonably specific”
17 notice of its intent to sue at least 60 days before filing suit. 33 U.S.C. § 1365(b); 40 C.F.R.
18 § 135.2. The notice “shall include sufficient information to permit the recipient to identify” the
19 alleged violation in order to allow it to correct the violation and avoid suit. 40 C.F.R. § 135.3(a);
20 *Gaston Copper*, 629 F.3d at 400. Here, the Plaintiff’s letter provided “reasonably specific”
21 notice. It outlined exactly which permit conditions it believed Astro to be violating. (Dkt. No 1 at
22 13–24.) WAP satisfies the notice requirement.

23 iii. Ongoing violation

24 A court has jurisdiction over a citizen suit under the CWA only when it is “based on
25 good-faith allegations of a defendant’s ongoing violation of the Act.” *Gwaltney*, 484 U.S. at 64.
26 The allegations here are that Astro has violated and continues to violate provisions of its NPDES

1 permit. (Dkt. No. 31 at 34.) Plaintiff has submitted multiple declarations demonstrating
2 violations after the date the complaint was filed. As such, this Court has jurisdiction over this
3 citizen CWA suit.

4 **C. Failure to Implement Pollution Controls**

5 Plaintiff argues that Astro has not implemented several of the specific and basic BMPs
6 required by (1) the General Permits, (2) Astro's own SWPPP, and (3) Ecology's Vehicle and
7 Metal Recyclers ISGP compliance guidance document.² (Dkt. No. 31 at 16.) WAP alleges that
8 Astro failed to implement the following BMPs: (1) bermed concrete containment pad for the
9 vehicle crusher, (2) secondary containment for fluid storage, (3) cover and containment for waste
10 and scrap piles, (4) grading and containment pads to reduce pollutant exposure, (5) contaminated
11 stormwater conveyance and treatment BMPs, (6) stormwater recycling system, and (7) keeping
12 hoods closed on stored junk vehicles. (Dkt. No. 31 at 16–19.) Plaintiff provided evidence of all
13 of the above implementation failures. (Dkt. Nos. 31-2, 32, 33, 34, and 35 at 13, 20.)

14 Astro does not dispute the specific contentions of Plaintiff, but rather counters by arguing
15 that (a) “even if there were any discharge” from the facility, “such a discharge is a nonpoint
16 source, and thus not regulated by the CWA,” (Dkt. No. 54 at 15), (b) Astro is a commercial, not
17 industrial, facility, and the guidance documents will not work with non-pointsource flow, (*Id.* at
18 16), and (c) section S3.4.b. of the General Permits allows for “equally effective” BMPs, which
19 are already in place (*Id.* at 16–17).

20 Astro's first two arguments are misplaced. Astro has a CWA required NPDES permit for
21 stormwater “discharge[s] associated with industrial activit[ies].” 33 U.S.C. § 1342(p)(3)(A); 40
22 C.F.R. 122.26(a)(ii); Dkt. Nos. 31-7 and 31-8. Plaintiff's lawsuit alleges that Astro has violated
23 numerous permit conditions. Ecology already determined that Astro requires a permit. (Dkt. No.
24 31-2 at 8–9.) Astro appealed that determination but ultimately withdrew its appeal. (*Id.*)

25
26 ² (2) and (3) are made enforceable by the General Permits. (Dkt. No. 31-8 at 10–11; Dkt.
No. 31-7 at 14–15.)

1 Furthermore, listed among the facilities Ecology requires to have an industrial stormwater permit
2 are “[r]ecycling facilities involved in the recycling of materials included but not limited to, metal
3 scrap yards, battery reclaimers, salvage yards, auto recyclers, and automobile junkyards.” (Dkt.
4 No. 31-7 at 8.) Astro’s defense appears to be a challenge to its permit, not to Plaintiff’s specific
5 allegations of permit violations. To that extent, Ecology’s decision to issue Astro an industrial
6 stormwater permit is not subject to collateral attack in this proceeding. *Gen. Motors Corp. v.*
7 *Envntl. Protection Agency*, 168 F.3d 1377, 1382–83 (D.C. Cir. 1999). As such, Astro’s first two
8 arguments fail.

9 Astro’s third argument—that it has equally effective BMPs in place, which is authorized
10 by the General Permits—has some merit. Under § S3.B.4.b., Astro “may omit individual BMPs
11 if site conditions render the BMP unnecessary, infeasible, or [Astro] provides alternative and
12 equally effective BMPs” and clearly justifies them. The consultant Astro hired to implement the
13 General Permits, Mr. Neugebauer, submitted a declaration stating that the berm and trench
14 system currently in place is just as effective as the BMPs from the guidance documents and the
15 SWPPP. (Dkt. No. 54 at 16; Dkt. No. 57 at 11–12.) Taken in the light most favorable to Astro,
16 this creates a disputed material fact as to whether Astro failed to implement (1) a bermed
17 concrete containment pad for the vehicle crusher, (3) cover and containment for waste and scrap
18 piles, (4) grading and containment pads to reduce pollutant exposure, and (5) contaminated
19 stormwater conveyance and treatment BMPs. Accordingly, Plaintiff’s motion for summary
20 judgment as to the foregoing is DENIED.

21 However, Plaintiff’s motion for summary judgment as to the failure to implement
22 (2) secondary containment for fluid storage, (6) a stormwater recycling system; and (7) keeping
23 hoods closed on stored junk vehicles, is GRANTED. The Court finds Astro liable for failing to
24 implement secondary containment for fluid storage form the day Ms. Cynthia Hickey, Senior
25 Stormwater Engineer for the King County Department of Natural Resources, inspected the
26 facility on March 18, 2015. (Dkt. No. 32 at 2–3.) The Court finds Astro liable for the failure to

1 implement a stormwater recycling system from October 31, 2015, the date by which it was to be
2 installed. (Dkt. No. 31-2 at 15–16.) The Court finds Astro liable for failing to keep the hoods
3 closed on stored junk vehicles from the day Plaintiff visited the site, September 1, 2015.³

4 **D. Reporting Requirement Violations**

5 Plaintiff moves for summary judgment on Astro’s chronic violation of “the
6 reporting . . . requirements of the NPDES permit that are central to adequate administration and
7 enforcement of limits on substantive discharges under the Clean Water Act” (Dkt. No. 31 at 19
8 (quoting *Sierra Club v. Simkins Indus., Inc.*, 847 F.2d 1109, 1115 (4th Cir. 1988)). Specifically,
9 Plaintiff claims that Astro failed to (1) submit detailed discharge monitoring reports (DMRs) in
10 15 quarters, (2) sample stormwater discharges, (3) indicate its compliance status on monthly
11 inspection reports, (4) prepare reports of noncompliance and remedial actions, and (5) submit
12 accurate annual reports in 2011 and 2014. (Dkt. No. 31 at 20–21.)

13 i. Failure to submit DMRs

14 Plaintiff alleges that Astro failed to submit quarterly DMRs in 15 quarters since 2010.
15 (Dkt. No. 31 at 20.) Astro provided paper copies of all its DMRs from 2010 onward to the
16 Plaintiff; however 15 of those reports are missing from Ecology’s Permit and Reporting
17 Information System (PARIS) database. (Dkt. No. 35 at 3.) Astro maintains they were submitted
18 to Ecology. (Dkt. No. 56 at 3.) Taken in the light most favorable to Astro, and considering the
19 DMRs were maintained and given to opposing counsel, there is a question of fact as to whether
20 the 15 DMRs missing from PARIS were in fact submitted to Ecology. Plaintiff’s motion for
21 summary judgment on a failure to submit DMRs is DENIED.

22 ii. Failure to sample stormwater discharge

23 Plaintiff next alleges that Astro failed to sample stormwater discharge during working
24

25 ³ Plaintiff states that Astro has not changed its practices, (Dkt. No. 31 at 19), yet cites to a
26 portion of the deposition—Dkt. No. 31-2 at 77–78—that was not provided to the Court.
However, the allegation is undisputed and corroborated by photos in Dkt. No. 33-4.

1 hours in the first and fourth quarters of 2015 and the first quarter of 2016, which violates the
2 2015 permit. (Dkt. No. 31 at 20.) Plaintiff submitted declarations and video evidence of these
3 discharges, including water flowing under the fence at the south end of the property and down
4 the embankment to East Hylebos Creek. (Dkt. Nos. 31-3, 31-5, 32 at 3–5, 33 at 2–3, 34 at 31–
5 32.) Astro argues that “Mr. Neugebauer’s report demonstrates that no discharges occur on this
6 property and the alleged ‘discharges’ are nothing more than rainwater falling on the outside of
7 Astro’s berm.” (Dkt. No. 54 at 18.) At the least, it argues, it is a question of fact as to whether
8 there were discharges. (*Id.*) Assuming that there is a question of fact, given the evidence
9 submitted by Plaintiff, no reasonable juror could conclude that these were not discharges.
10 Because the evidence clearly demonstrates there were discharges in three quarters, for which no
11 samples were taken, Plaintiff’s motion for summary judgment as to the stormwater discharge
12 sampling requirement is GRANTED.

13 iii. Compliance status

14 Plaintiff alleges that Astro failed to indicate its compliance status on its monthly
15 inspection reports. (Dkt. No. 31 at 20–21.) Astro does not dispute that it failed to do so, but
16 rather argues that because it filled out the report, whether it checks the box for compliance or
17 non-compliance is irrelevant. (Dkt. No. 54 at 18–19.) Section S7.C.1.c. specifically states the
18 inspector and the permittee must indicate—here by checking a box—whether the facility is in
19 compliance or not. (Dkt. No. 31-7 at 35; Dkt. No. 31-8 at 34–37.) Astro did not do this on 40
20 reports. (Dkt. No. 35-13.) Accordingly, Plaintiff’s motion for summary judgment as to failure to
21 indicate compliance status on 40 monthly inspection reports is GRANTED.

22 iv. Failure to prepare reports of non-compliance

23 On 26 of Astro’s monthly inspection reports, it indicated that it was out of compliance
24 with the General Permit. (Dkt. No. 35 at 2; Dkt. No. 35-3.) Twenty-one of those reports did not
25 describe planned remedial actions to bring the facility back into compliance. (*Id.*) This is in
26 violation of S7.D. and S9.E. (Dkt. No. 31-7 at 35, 40–41.) Plaintiff moves for summary

1 judgment on those 21 failures to report remedial action plans. (Dkt. No. 31 at 21.) Astro counters
2 by arguing that Plaintiff “ignores data” because on one of the reports, a remedial action plan is
3 included. (Dkt. No. 54 at 19.) However, Plaintiff does not assign a violation to the five reports
4 which contain remedial action plans. (Dkt. No. 31 at 4.) Therefore, Plaintiff’s motion for
5 summary judgment as to Astro’s 21 failures to prepare reports of non-compliance and remedial
6 actions is GRANTED.

7 v. Inaccurate annual reports

8 Finally, Plaintiff alleges that Astro failed to include in its annual report the conditions
9 necessitating corrective action and the corrective actions it has taken or will take for 2011 and
10 2014. (Dkt. No. 31 at 21.) This is required under § S9.B. Astro does not contest this violation.
11 Accordingly, the Court GRANTS Plaintiff’s motion for summary judgment as to the annual
12 reporting violations.

13 **E. Corrective Action Requirement Violations**

14 In 2011, Astro exceeded benchmarks for copper, turbidity, lead, zinc, and total petroleum
15 hydrocarbons (TPH). (Dkt. No. 35-10.) In 2014, Astro exceeded benchmarks for turbidity. (Dkt.
16 No. 35-11.) Based on these results, Astro was required to inspect the facility for pollution
17 sources, identify additional BMPs, report remedial actions to Ecology, and summarize the
18 corrective actions in its annual report. (Dkt. No. 31-7 at 36; Dkt. No. 31-8 at 37–38.) Astro does
19 not dispute that it did not do this. Accordingly, the Court GRANTS Plaintiff’s motion for
20 summary judgment as to the corrective action requirements in 2011 and 2014.

21 **F. Copper Effluent Limit Violation**

22 Finally, Plaintiff argues that Astro has exceeded the allowable copper effluent limitation,
23 in violation of the General Permits. (Dkt. No. 31 at 23.) The limitation for copper is 2.7 parts per
24 billion. (*Id.*) In 2011, the sample tested contained a copper concentration of 36 parts per billion,
25 more than 13 times the limit. (Dkt. No. 35-10.) The only other sample tested for copper, taken in
26 2014, shows a concentration of .054 parts per billion. (Dkt. No. 35-11.) Plaintiff’s expert, Dr.

1 Horner, believes this is a mistake because .054 parts per billion would be undetectable and posits
2 5.4 parts per billion is the more likely result. (Dkt. No. 34 at 16.) Because Astro made very few,
3 if any, changes between 2011 and 2014, Dr. Horner opines that “Astro is very likely discharging
4 stormwater that violates the copper effluent limit.” (Dkt. No. 31 at 23.)

5 Astro maintains that because the 2014 sampling shows copper levels under the effluent
6 limit, and because Plaintiff has not done any sampling of its own, this is not an ongoing
7 violation, and therefore not subject to enforcement under the CWA. (Dkt. No. 54 at 17.)

8 Although the Court remains skeptical of Astro’s copper reading of .054 parts per billion,
9 when taken in the light most favorable to Astro, it creates an issue of material fact as to whether
10 there is an ongoing violation of § S6.C. for exceeding the copper effluent limitation. Without any
11 independent testing, Dr. Horner’s opinion that it is very likely Astro is discharging stormwater
12 with high levels of copper—although admissible—is not enough to grant summary judgment in
13 Plaintiff’s favor. Plaintiff’s motion for summary judgment on exceeding the copper effluent limit
14 is DENIED.

15 **III. CONCLUSION**

16 For the foregoing reasons, Plaintiff WAP’s motion for partial summary judgment (Dkt.
17 No. 31) is GRANTED in part as to:

- 18 (1) Standing to bring suit, including fulfillment of the notice and ongoing violation
19 requirements,
- 20 (2) Failure to implement the BMPs of a secondary containment for fluid storage from
21 May 18, 2015 onward, a stormwater recycling system from October 31, 2015 onward,
22 and keeping the hoods closed on stored junk vehicles from September 1, 2015
23 onward,
- 24 (3) Failure to sample stormwater discharge in the first and fourth quarters of 2015 and
25 the first quarter of 2016,
- 26 (4) Failure to indicate compliance status on 40 monthly inspection reports,

- 1 (5) Failure to prepare 26 reports of non-compliance and remedial actions,
- 2 (6) Failure to prepare accurate and complete annual reports in 2011 and 2014, and
- 3 (7) Failure to fulfill corrective action requirements in 2011 and 2014.

4 Plaintiff's motion for summary judgment (Dkt. No. 31) is DENIED in part as to:

- 5 (1) Failure to implement BMPs for a bermed concrete containment pad for the vehicle
6 crusher, cover and containment for waste and scrap piles, grading and containment
7 pads to reduce pollutant exposure, and contaminated stormwater conveyance and
8 treatment,
- 9 (2) Failure to submit DMRs in 15 quarters, and
- 10 (3) Violation of the copper effluent limits.

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12 DATED this 6th day of December 2016.

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19 John C. Coughenour
20 UNITED STATES DISTRICT JUDGE
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EXHIBIT 17

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASTE ACTION PROJECT,

Plaintiff,

v.

ASTRO AUTO WRECKING, LLC,

Defendant.

CASE NO. C15-0796-JCC

ORDER

This matter comes before the Court on Plaintiff’s detailed accounting of litigation costs (Dkt. No. 92) and Defendant’s objections (Dkt. No. 94). The prevailing party in a citizen suit under the Clean Water Act is entitled to an award of the “costs of litigation (including reasonable attorney and expert witness fees).” 33 U.S.C. § 1365(d). As the prevailing party in this case (Dkt. No. 91 at 11), Plaintiff seeks litigation expenses in the amount of \$203,463.30. (Dkt. No. 92 at

2.) The amount is composed of the following:

- \$177,468.50 in attorney fees from counsel at Smith & Lowney, PLLC.
- \$20,906.65 in expert witness fees.
- \$5,088.15 in litigation expenses and mediator fees.

(Dkt. No. 93 at 1, 5, 39–41.)

The Court makes the general observation that—save for one instance discussed below—the billing rate and hours spent on this case were reasonable, especially in light of its factual

1 complexity and the efforts made by Plaintiff’s counsel to reduce attorney fees by over \$18,000.
2 (Dkt. No. 92 at 2.) The Court also considers the following objections made by Defendant Astro
3 Auto Wrecking.

4 First, Defendant argues that a fee and cost award is not justified and even if it is, special
5 circumstances exist to deny the award. (Dkt. No. 94 at 2–3.) As to whether an award is justified,
6 the Court addressed this issue in a previous order and will not reconsider it here. (Dkt. No. 91 at
7 11.) The cases Defendant cites in support of its special circumstances argument deal with
8 counsel failing to adequately brief the issues presented to the Court. (Dkt. No. 94 at 3–4.) That is
9 not the case here. A fee and cost award is justified.

10 Second, Defendant argues that Plaintiff frequently employs “block billing” and those
11 hours should be reduced by 20%. (*Id.* at 4–5.) While the Ninth Circuit has endorsed a district
12 court’s reduction of block billing, *see, e.g., Welch v. Metro Life Ins. Co.*, 480 F.3d 942, 948 (9th
13 Cir. 2007), this Court finds that Plaintiff’s counsels’ entries give “sufficient information for the
14 Court to assess the nature of the work done.” *See Campbell v. Catholic Cmty. Servs.*, 2012 U.S.
15 Dist. LEXIS 190096, at *14 (W.D. Wash. Aug. 8, 2012).

16 Third, Defendant maintains that the Court should not award fees for intra-office
17 conferences and communication with the client. (Dkt. No. 94 at 6.) This Court disagrees, as both
18 of these activities are essential to the role of a lawyer, and to deny fees for communication
19 disincentivizes sound lawyering. While the Ninth Circuit has upheld the denial of fees for intra-
20 office conferences in rather straightforward matters, or where one attorney declared he could do
21 the work unassisted, *see, e.g., Welch*, 480 F.3d at 949, this case dealt with many provisions of the
22 Clean Water Act and as such was fairly complicated. The Court will not penalize Plaintiff’s
23 counsel for collaboration.

24 Fourth, Defendant argues that attorney fees should be reduced because of overstaffing,
25 grossly excessive billing, and meaningless or fruitless work. (Dkt. No. 94 at 6–8.) For the most
26 part, the Court disagrees. Mr. Smith did not bill for many of his documented hours. (Dkt. No. 93-

1 1 at 2–15.) Overall, Plaintiff’s counsel expended 644 hours on litigation lasting almost two years
2 and including trial, in which they sought to prove thousands of CWA violations. (Dkt. Nos. 1,
3 91, and 93-1 at 15.) The Court finds this reasonable. The only area worthy of reduction is the
4 34.1 hours necessary to prepare for the direct examination of Victor Young. The Court finds this
5 excessive and reduces that amount by 50%, or \$3,921.50.

6 Finally, Defendant seeks to exclude travel and meal expenses incurred during trial and
7 mediation. (Dkt. No. 94 at 8.) The case cited by Defendant, *MKB Constructors v. Am. Zurich Ins.*
8 *Co.*, is unhelpful as it held that under the Insurance Fair Conduct Act (IFCA), certain expenses
9 were not necessary to establish coverage. 83 F.Supp.3d 1078, 1096 (W.D. Wash. 2015). Plaintiff
10 is not seeking litigation expenses under IFCA.

11 For the foregoing reasons, the Court FINDS that Plaintiff Waste Action Project is entitled
12 to an award of attorney fees and costs in the amount of \$199,541.80.

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14 DATED this 16th day of June, 2017.

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18 John C. Coughenour
19 UNITED STATES DISTRICT JUDGE

EXHIBIT 18



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

March 13, 2015

Astro Auto Wrecking
37307 Enchanted Parkway South
Federal Way, Washington 98003

Re: Industrial Stormwater General Permit (ISWGP Coverage WAR11869)

Dear Mr. Leo:

Enclosed is the report from the Department of Ecology's recent Industrial Stormwater NPDES General Permit compliance inspection conducted at your facility on February 5, 2015. I would like to thank you for the time you spent with me during my visit. Please note there were a number of issues that require your immediate attention.

Please contact me at (360) 407-6273 or psta461@ecy.wa.gov if you have any questions, comments or would like additional technical assistance.

Sincerely,

Paul Stasch
Industrial Stormwater Facility Manager
Southwest Regional Office
Water Quality Program

Enclosure

cc: Tracie Walters, Ecology





Water Compliance Inspection Report

Section A: National Data System Coding (i.e., PCS)

Transaction Code	NPDES	month/day/year	Inspection Type	Inspector	Facility Type
1 N	5	WAR11869	February 5, 2015		
Remarks					
21					66
Inspection Work Days	Facility Self-Monitoring Evaluation Rating	B1	QA	-----Reserved-----	
67	69	70	71	72	73 74 75 80

Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number) Astro Auto Wrecking 37307 Enchanted Parkway South Federal Way, Wa. 98003	Entry Time	Permit Effective Date
	0905 a.m.	January 2, 2015
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number Leo (253) 838-2800	Exit Time	Permit Expiration Date
	0955 a.m.	December 31, 2019
Name, Address of Responsible Official/Title/Phone and Fax Number		Other Facility Data (e.g., SIC NAICS, and other description information)
Contacted <input type="checkbox"/> Yes <input type="checkbox"/> No		

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input checked="" type="checkbox"/> Permit	<input checked="" type="checkbox"/> Self-Monitoring Program	<input type="checkbox"/> Pretreatment	<input type="checkbox"/> MS4
<input checked="" type="checkbox"/> Records/Reports	<input type="checkbox"/> Compliance Schedules	<input type="checkbox"/> Pollution Prevention	
<input checked="" type="checkbox"/> Facility Site Review	<input type="checkbox"/> Laboratory	<input checked="" type="checkbox"/> Stormwater	
<input type="checkbox"/> Effluent/Receiving Waters	<input type="checkbox"/> Operations & Maintenance	<input type="checkbox"/> Combined Sewer Overflow	
<input type="checkbox"/> Flow Measurement	<input type="checkbox"/> Sludge Handling/Disposal	<input type="checkbox"/> Sanitary Sewer Overflow	

Section D: Summary of Findings/Comments

(Attach additional sheets of narrative and checklists, including Single Event Violation codes, as necessary)

This facility inspection was conduct at the request of Clay Keown of the Department of Ecology. According to him, the facility has not submitted a discharge monitoring report form for many quarters. I met with Leo, the facility operator. The facility has been in operation since the 1930s.

S3. – SWPPP: Leo was unable to produce any of the require documentation for inspection. He claimed a former employee took the “file”.

S4. - Correct Sampling Procedures and Locations: Leo claims samples have been collected but could not produce any analytical documentation to support the claim.

S5. - Compliance with Benchmark Values: This could not be determined.

S7. – Inspections: No written monthly facility inspection was available for review.

S8. – Corrective Actions: The corrective action status of the facility could not be determined. However, the facility has had an infiltration trench designed and installed along the downgradient perimeter of the facility to retain all stormwater onsite. According to Leo, the system did not function properly and overtops during periods of heavy precipitation.

S9. – Reporting and Recordkeeping: The facility’s reporting and recordkeeping were substandard. Leo was aware of electronic reporting and tried to sign up but was unsuccessful.

This facility is grossly out of compliance with their Industrial Stormwater General Permit. The required documentation was not available for review. The site is situated on a hill side above Hylebos Creek. At the time of the inspection it was raining moderately. Visible oil sheens were everywhere and present on all stormwater flowing through the site. There was a noticeable lack of commonly employed best management practices (BMPs). The facility operates a crusher onsite. The crusher was leaking oil to the ground. Used tires were being cut up and placed in cars being crushed and sent to Schnitzer. It is unclear if Schnitzer is aware of the practice.

REQUIREMENTS: 1. Obtain a copy of the ISWGP. 2. Recover your stormwater file form your former employee or create a new stormwater pollution prevention plan (SWPPP) for your facility. 3. Collect a quarterly monitoring sample every quarter there is a discharge from your facility. 4. Submit DMRs or electronic reporting in a timely fashion. 5. Comply with the terms and conditions of the ISWGP.

RECOMMENDATIONS:

REMINDER: A quarterly monitoring sample must be collected every quarter there is a stormwater discharge from the facility.

Verify Latitude and Longitude

Announced
 Unannounced

Name(s) and Signature(s) of Inspector(s) Paul Stasch <i>Paul Stasch</i>	Agency/Office Phone and Fax Numbers Ecology/SWRO (360) 407-6273	Date 2-24-15
Signature of Management A Q Reviewer Steve Eberl <i>Steve Eberl</i>	Agency/Office Phone and Fax numbers Ecology/SWRO (360) 407-6293	Date 3-2-2015

EPA FORM 3560-3 (Rev 1-06) Previous editions are obsolete

EXHIBIT 19

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASTE ACTION PROJECT,

Plaintiff,

v.

ASTRO AUTO WRECKING LLC,

Defendant.

CASE NO. C15-0796-JCC

ORDER

This matter comes before the Court on Plaintiff’s motion for an order to show cause why Defendant should not be held in civil contempt (Dkt. No. 102). The Court has broad authority to sanction Defendant for failing to satisfy an earlier order by the Court. *F.T.C. v. EDebitPay, LLC*, 695 F.3d 938, 945 (9th Cir. 2012).

Upon reviewing the materials Plaintiff presents and the parties’ resulting stipulation (Dkt. No. 105), the Court FINDS that Plaintiff has established by clear and convincing evidence that Defendant has violated the Court’s April 4, 2017 order (Dkt. No. 91 at 10) requiring Defendant to implement certain pollution control measures by March 31, 2018. *See U.S. v. Bright*, 596 F.3d 683, 694 (9th Cir. 2010). Moreover, Defendant has not shown why it is unable to comply with the order. *See F.T.C. v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir. 1999).

Accordingly, the Court ORDERS as follows: if Defendant fails to show full compliance with paragraph 36(b) of the stipulated injunctive relief, as ordered by paragraph 16 of the Court’s

1 April 4, 2017 order (Dkt. No. 91 at 10), by September 30, 2018, Defendant must pay to the Court
2 \$5,000 per month of noncompliance beyond September 30, 2018. In order to avoid these
3 sanctions, Defendant must file a declaration confirming its compliance with the April 4, 2017
4 order by October 1, 2018. That declaration must include photographs showing completion of the
5 required impervious concrete pad surrounded by a concrete berm for Defendant's car crushing
6 area and an oil/water separator consistent with the design prepared by Land Technologies, dated
7 April 15, 2011 and stamped by registered engineer Paul Musante.

8 DATED this 13th day of August 2018.

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12 John C. Coughenour
13 UNITED STATES DISTRICT JUDGE
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EXHIBIT 20

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

WASTE ACTION PROJECT, a Washington
Non-Profit Corporation,

Plaintiff,

vs.

ASTRO AUTO WRECKING, LLC, a
Washington Limited Liability Company

Defendant.

CASE NO.: 2:15-cv-00796-JCC

DECLARATION OF COMPLIANCE
OF LEO MCMILIAN

I, Leo McMilian, under penalty of perjury under the laws of the State of Washington, do
declare as follows:

1. I am over the age of 18 and competent to testify regarding the matters set forth herein.
2. I am the owner of Astro Auto Wrecking, LLC, the Defendant, ("Astro") in this matter.
3. Astro is in compliance with the April 4, 2017 Order (Dkt. No. 91), specifically but not limited to paragraph 36(b), as Ordered by this Court in paragraph 16, and as further Ordered by this Court's August 13, 2018 Order (Dkt. No. 106).
4. A concrete pad for Astro's car crushing area has been installed.

