





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

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HEARINGS CLERK  
EPA - REGION 10

**EXPEDITED SETTLEMENT AGREEMENT**

**DOCKET NO:** CAA-10-2018-0279  
**This ESA is issued to:** Public Works Department  
City of Pasco  
525 N. Third Ave.  
Pasco, Washington 99301

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

**ALLEGED VIOLATIONS**

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

**SETTLEMENT**

In consideration of the penalty assessment factors set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in the enclosed Summary for the total penalty amount of **\$8,040**.

This settlement is subject to the following terms and conditions:

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

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

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

Respondent agrees to submit payment in full of the \$8,040 within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk.

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

This original ESA must be sent by certified mail to:

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

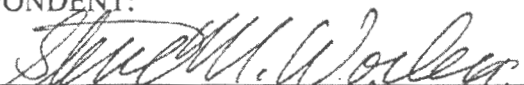
Upon Respondent's submission of the signed original ESA, signature by EPA, filing with the Regional Hearing Clerk, and timely payment of the penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the CAA referenced in the Summary. EPA does not waive its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

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

This ESA is binding on the parties signing below.

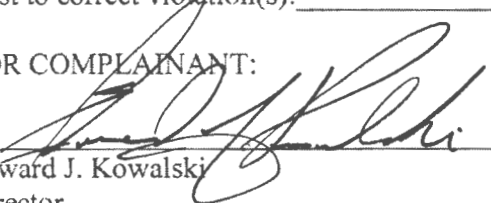
This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature:   
Name (print): STEVE M. WORLEY  
Title (print): PUBLIC WORKS DIRECTOR  
Cost to correct violation(s): \_\_\_\_\_

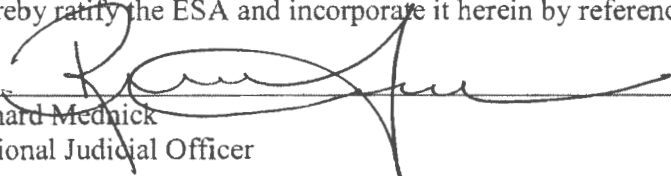
Date: 5/17/18

FOR COMPLAINANT:

  
Edward J. Kowalski  
Director  
Office of Compliance and Enforcement

Date: 5/23/2018

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

  
Richard Mednick  
Regional Judicial Officer

Date: 5/31/18



# U.S. ENVIRONMENTAL PROTECTION AGENCY

## Risk Management Program Inspection Findings and Alleged Violations Summary Region 10

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

FACILITY NAME: Butterfield Water Treatment Plant	<input type="checkbox"/> PRIVATE # EMPLOYEES: 5	<input checked="" type="checkbox"/> GOVERNMENTAL/MUNICIPAL POPULATION SERVED: 80,000
FACILITY LOCATION: 1306 W. "B" Street, Pasco WA 99301	INSPECTION START DATE AND TIME: 9/11/2017 1:30 PM	
MAILING ADDRESS: 1306 W. "B" Street, Pasco WA 99301	INSPECTION END DATE AND TIME: 9/11/2017 4:20 PM	
RESPONSIBLE OFFICIAL, TITLE, PHONE NUMBER: Reuel Klempel, Plant Manager, (509) 727-4101	EPA FACILITY ID# 1000 0014 5924	
FACILITY REPRESENTATIVE(S), TITLE(S), PHONE NUMBER(S): Bill Maxwell, Water Plant Operator Justin Tucker, Safety and Claims Specialist	INSPECTOR NAME(S), TITLE(S), PHONE NUMBER(S) Bob Hales, US EPA SEE Grantee, Lead Inspector, 206-553-4090 Peter Phillips, US EPA SEE Grantee, Inspector Terry Garcia, US EPA SEE Grantee, Inspector David Magdangal, US EPA, Inspector	
	INSPECTOR SIGNATURE <i>James Maxwell</i>	DATE 3/22/2018

### INSPECTION FINDINGS

IS FACILITY SUBJECT TO RMP REGULATION (40 CFR 68)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DID FACILITY SUBMIT AN RMP AS PROVIDED IN 68.150 TO 68.185?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
DATE RMP FILED WITH EPA: 6/24/1999	DATE OF LATEST RMP UPDATE: 10/21/2014	
1) PROCESS/NAICS CODE: 22131 REGULATED SUBSTANCE: chlorine	PROGRAM LEVEL: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3	MAX. QUANTITY IN PROCESS (lbs.): 8,000

### DESCRIPTION OF ALLEGED VIOLATIONS

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

Four EPA representatives inspected the Butterfield Water Treatment Plant on September 11, 2017. Based upon this inspection the Butterfield Water Treatment Plant (WTP) is in violation of the following risk management program elements:

- Management:** Butterfield WTP has not developed a management system to oversee the implementation of the risk management program elements as required by 40 C.F.R. § 68.15(a). During the inspection, Butterfield WTP was unable to produce documents identifying the qualified person who has the overall responsibility and individuals assigned in developing and implementing the RMP elements.
- Hazard assessment:** Butterfield WTP has not retained the data used to estimate population and environmental receptors potentially affected as required by 40 C.F.R. § 68.39(e). Butterfield WTP was unable to provide documentation on the worst case scenario and alternative release scenario as reported in the RMP dated October 21, 2014.
- Hazard assessment:** Butterfield WTP did not use the greatest amount held in a single vessel in determining the worst-case release quantity as required by 40 C.F.R. § 68.25(b)(1). Butterfield WTP RMP dated October 21, 2014 reported an amount of 8,000 pounds of chlorine for the worst-case release quantity. The release quantity determined is the maximum intended inventory. The largest amount in a single vessel is the one-ton container.
- Process Safety Information:** Butterfield WTP process safety information does not contain information pertaining to the materials of construction of equipment in the process as required by 40 C.F.R. § 68.65(d)(1)(i). On September 29, 2017, Butterfield WTP provided the "Butterfield WTP O&M – Chlorination" to identify materials in the chlorination process. On page 27-28 of the O&M, the PVC is only identified material of construction for piping. Butterfield WTP did not identify the materials of construction for other process equipment such as the cylinders, gauges, valves, regulators, flexible connectors, injectors and chlorinators.

**DESCRIPTION OF ALLEGED VIOLATIONS (Cont'd)**

5. **Process Safety Information:** Butterfield WTP process safety information does not contain information pertaining to the ventilation system design in the process as required by 40 C.F.R. § 68.65(d)(1)(v). On September 29, 2017, Butterfield WTP references a document titled "Butterfield WTP HVAC – 1985" for the two chlorine storage areas that includes drawings with information on the air turnover rate and static pressure design points. The document was not provided in the e-mail.
6. **Process Safety Information:** Butterfield WTP process safety information does not contain information pertaining to the design codes and standards employed for equipment in the process as required by 40 C.F.R. § 68.65(d)(1)(vi). On September 29, 2017, Butterfield WTP provided the "Chlorine Handling Manual" that addresses the design codes and standards for process equipment such as containers and piping. Butterfield WTP was unable to provide the design codes and standards for the chlorine feed room and storage room.
7. **Process Hazard Analysis:** The PHA has not been updated and revalidated by a team every five years after the completion of the initial PHA to assure that the PHA is consistent with the current process as required by 40 C.F.R. § 68.67(f). On September 29, 2017, Butterfield WTP provided the 2014 PHA included in Chapter 3 of the "Process Safety Management of Highly Hazardous Chemicals" document. Butterfield WTP RMP dated October 21, 2014 reported a PHA date of September 24, 2014. Butterfield WTP was unable to provide PHAs that were completed prior to 2014.
8. **Process Hazard Analysis:** The owner or operator has not retained PHAs and updates or revalidations for each process covered, as well as the resolution of recommendations for the life of the process as required by 40 C.F.R. § 68.67(g). On September 29, 2017, Butterfield WTP provided the 2014 PHA included in Chapter 3 of the "Process Safety Management of Highly Hazardous Chemicals" document. The 2014 PHA did not document the resolution of recommendations. Butterfield WTP was unable to provide PHAs that were completed prior to 2014.
9. **Operating Procedures:** Butterfield WTP has not certified annually that the operating procedures are current and accurate and that procedures have been reviewed as often as necessary as required by 40 C.F.R. § 68.69(c). On September 29, 2017, Butterfield WTP provided operating procedures referenced in the Butterfield WTP O&M – Chlorination, pgs. 7-30 to 7-43 and in Chapter 4 of the "2014 Process Safety Management of Highly Hazardous Chemicals". The operating procedures are not dated.
10. **Compliance Audits:** Butterfield WTP has not certified that the stationary source has evaluated compliance with the provisions of the prevention program at least every three years to verify that the developed procedures and practices are adequate and being followed as required by 40 C.F.R. § 68.79(a). During the inspection and on September 29, 2017, Butterfield WTP was unable to produce a completed compliance audit report. Butterfield WTP RMP dated October 21, 2014 reported a compliance audit date of September 7, 2014.
11. **Employee Participation:** Butterfield WTP has not developed a written plan of action regarding the implementation of the employee participation required by this section as required by 40 C.F.R. § 68.83(a). Butterfield WTP was unable to produce the written plan during the inspection. Butterfield WTP RMP dated October 21, 2014 reported a written plan review or revision date of September 7, 2014.
12. **Contractors:** Butterfield WTP has not obtained and evaluated information regarding the contract owner or operator's safety performance and programs when selecting a contractor as required by 40 C.F.R. § 68.87(b)(1). During the inspection, Butterfield WTP was unable to produce the documentation on the evaluation of contractor safety performance in selecting a contractor. On September 29, 2017, Butterfield WTP provided the Policy for Outside Contractors procedure given in Chapter 6 of the "Process Safety Management of Highly Hazardous Chemicals" document. TMG Services is the contractor identified in the procedure who regularly works on the chlorine system.
13. **Contractors:** Butterfield WTP has not informed contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process as required by 40 C.F.R. § 68.87(b)(2). Butterfield WTP was unable to produce the documentation on informing TMG Services of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.
14. **Contractors:** Butterfield WTP has not explained to the contract owner or operator the applicable provisions of the emergency response or the emergency action program as required by 40 C.F.R. § 68.87(b)(3). Butterfield WTP was unable to produce the documentation on explaining to TMG Services of the provisions in their emergency action plan.
15. **Contractors:** Butterfield WTP has not periodically evaluated the performance of the contract owner or operator in fulfilling their obligations as required by 40 C.F.R. § 68.87(b)(5). Butterfield WTP was unable to produce the documentation that they are periodically evaluating the performance of TMG Services.
16. **Risk Management Plan:** Butterfield WTP has not corrected the emergency contact information required at 68.160(b)(6) within thirty days of the change as required by 40 C.F.R. § 68.195(b). Butterfield WTP RMP dated October 21, 2014 identifies Mr. Fred Vanecek as the emergency contact. Mr. Vanecek retired and left the plant in April 2017.

DID FACILITY CORRECTLY ASSIGN PROGRAM LEVELS TO PROCESSES?

YES

NO

ATTACHED CHECKLIST(S):

PROGRAM LEVEL 1

PROGRAM LEVEL 2

PROGRAM LEVEL 3

OTHER ATTACHMENTS:

**Certificate of Service**

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: City of Pasco Public Works Department, Docket No.: CAA-10-2018-0279**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

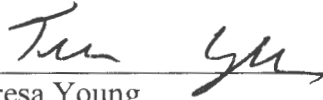
The undersigned certifies that a true and correct copy of the document was delivered to:

Javier Morales, RMP Coordinator  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 155, OCE-101  
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Steve Worley  
Public Works Director  
Public Works Department  
City of Pasco  
525 North Third Avenue  
Pasco, Washington 99301

DATED this 31 day of May, 2018

  
\_\_\_\_\_  
Teresa Young  
Regional Hearing Clerk  
EPA Region 10

