



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10, 1200 Sixth Avenue, Seattle, Washington 98101
EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-10-2025-0055, NPDES No. WAR309307

Penalty Amount: \$8,606 Inspection Date: September 12, 2023

Wilbur Ellis ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is an "Expedited Settlement Offer Worksheet" ("Settlement Worksheet"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the alleged violations specified in the Settlement Worksheet.

Respondent failed to comply with the condition(s) or limitation(s) of a duly issued permit pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the specific alleged violations specified in the Settlement Worksheet or this Expedited Settlement Agreement ("Agreement").

This Agreement constitutes a Consent Agreement and Final Order, which EPA is authorized to enter under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement to settle the civil violation(s) alleged in this Agreement for a penalty of \$8,606. Respondent consents to the assessment of this penalty and waives the right to: (1) contest the finding(s) specified in the Settlement Worksheet; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that the alleged violations identified in the Settlement Worksheet have been corrected. Respondent shall submit a written report and other documentation required by EPA with this Agreement detailing the specific actions taken to correct the alleged violations cited herein. This documentation may include monitoring, inspection and maintenance reports, documentation of corrective actions, certification records, and other records required for compliance with permit documentation and recordkeeping conditions.

Respondent certifies that, within ten (10) days after receipt of the Final Order, Respondent will submit electronic payment via www.pay.gov or submit a bank, cashiers, or certified check, with

case name and docket number noted, for the amount specified above, payable to the "Treasurer, United States of America," via certified mail, to:

Regional Hearing Clerk
U.S. EPA, Region 10
Fines and Penalties, Cincinnati Finance Center
In the Matter of: Wilbur Ellis
Docket No.: CWA-10-2025-0055
P.O. Box 979078
St. Louis, MO 63197-9000

Respondent agrees that consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), it will not deduct the penalties paid under this Agreement for federal tax purposes.

This Agreement settles EPA's civil penalty claims against Respondent for the alleged Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected alleged violation(s) described in the Settlement Worksheet. EPA has determined this Agreement to be appropriate.

Prior to requesting that an EPA Regional Judicial Officer issue the Final Order, EPA will provide a copy of the Agreement to the state of Washington for the purposes of consultation with Washington on the appropriateness of this Agreement. EPA will also provide public notice of this Agreement and a reasonable opportunity for public comment on it. EPA will address any comments on the Agreement in accordance with section 309(g)(1) and (4)(A) of the Act, 33 U.S.C. § 1319(g)(1) and (4)(A), and 40 CFR §§ 22.38 and 22.45.

This Agreement is binding on the parties signing below and becomes final 30 days from the date it signed is by the Regional Judicial Officer, unless a petition to set aside this Agreement is filed by a commenter pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1391(g)(5), following public notice of this Agreement.

APPROVED BY RESPONDENT:

Name
(print): _____

Title
(print): _____

Signature: _____ Date: _____

APPROVED BY EPA:

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division

More than 40 days have elapsed since providing the Agreement to Washington and the issuance of public notice pursuant to Section 309(g)(1) and (4)(A) of the Act, 33 U.S.C. § 1319(g)(1) and (4)(A), and EPA has received no comments concerning this matter.

Vanessa Oquendo, Case Officer
Enforcement and Compliance Assurance Division

Having determined that this Agreement is authorized by law,
IT IS SO ORDERED:

Regional Judicial Officer
Region 10
U.S. Environmental Protection Agency

Date: _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
INDUSTRIAL STORMWATER
EXPEDITED SETTLEMENT AGREEMENT



Permittee		Site Factors		
Site Name:	Wilbur - Ellis Company - Mt Vernon	Acres of Exposure:	6	
Street Address:	13586 BayView Edison Road	Full Time Employees:	6	
City, State, Zip:	Mt. Vernon, WA 98273	Environmental Harm:	Med	
Lat/Long:	48.449123, -122.472412	Sector:	C - Chemical and Allied Products Mfg.	
Permit ID:	WAR309307	Receiving Water(s):	Unnamed Stream	
Inspection Date:	9/12/2023	Water(s) Status:	Medium Quality	
Permit Section Citation		Magnitude*	Penalty Amount	Duration
S3.4	Control Measure Selection and Design Considerations	Moderate	\$1,688	Sep-23
S3.4	Non-Numeric Technology-Based Effluent Limits	Minimal	\$844	Sep-23
S7	Monthly Facility Inspections	< 5%	\$338	February 10, 2020 - July 15, 2020
S4	General Sampling Requirements	Moderate	\$1,688	February 10, 2020 - July 15, 2020; Quarter 4 2020; Quarter 1 2022
S5	Benchmark Monitoring	< 5%	\$844	February 10, 2020 - July 15, 2020
S8	Corrective Actions	Minimal	\$1,181	Quarter 4 2020
S3	Stormwater Pollution Prevention Plan (SWPPP)	Minimal	\$1,688	August 2020 - September 2023
S9	Reporting and Recordkeeping	Minimal	\$338	Quarter 4 2020 - 2022
		Total:	\$8,606	

* "Magnitude" reflects the severity and/or duration of the violations identified by the Inspector(s) at the time of the Inspection.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
INDUSTRIAL STORMWATER
EXPEDITED SETTLEMENT AGREEMENT



Permit Section Citation	Description of Violations
S3.4 Control Measure Selection and Design Considerations	Lack of filtration BMPs in catch basins and lack of cleaning of catch basins. There was sediment and gravel accumulations in the catch basin conveyance system (A1 - A3) west of the facility fertilizer tank farm.
S3.4 Non-Numeric Technology-Based Effluent Limits	The Facility is storing upwards of 50 – 100 totes (e.g., 275-gallons or more per tote) containing fertilizer materials on the Facility's north-side equipment parking and material storage area (near Facility's western boundary), outside of containment and immediately adjacent to the Facility's west-side biofiltration swale (north-south orientation). The Facility is storing upwards of 10 – 15 totes (e.g., 275-gallons per tote) containing fertilizer materials outside of containment near the maintenance shop approximately 35-40 feet from Catch Basin (CB) – B1. ISGP-compliant spill kits were not available within the exact 25-foot distance required in the ISGP or nearby.
S7 Monthly Facility Inspections	Facility had not conducted monthly facility inspections for industrial stormwater discharges between February 2020 and July 15, 2020 (Clean Water Act 5-year statute of limitations until permit coverage) as required by the 2020 ISGP that became effective January 1, 2020, and the facility should have had permit coverage given its industrial activity and operation since before the January 1, 2020 permit effective date.
S4 General Sampling Requirements	Stormwater samples, including pH samples, taken for Quarter 4 of 2020 and Quarter 1 of 2022 were transported to the analytical laboratory for analysis, which likely did not result in the pH samples being analyzed within 15 minutes of sample collection at the Facility's MP-1. WEC was not able to provide or produce the required sample documentation for the March 15, 2022 stormwater sampling event during the inspection. WEC failed to sample for BOD5 in its Quarter 1 of 2022 stormwater sampling event at the Facility's MP-1. The WEC DMR included a note/comment that BOD5 was not sampled/analyzed in Quarter 1 of 2022.
S5 Benchmark Monitoring	Not conducted benchmark monitoring for industrial stormwater discharges between February 2020 and July 15, 2020 (Clean Water Act 5-year statute of limitations until permit coverage) when facility has been operating since at least 1989 and the 2020 ISGP was available to submit an NOI for permit coverage for industrial stormwater discharges before permit effective date of January 1, 2020. There have been significant rain events (at least 0.5" rain) between February 10, 2020 and July 15, 2020 based on MOUNT VERNON 3.4 W weather monitoring station in which sampling and monitoring would have been required by the 2020 ISGP.
S8 Corrective Actions	Lack of presenting WEC's Q4 benchmark exceedances at MP-1 in 2020 in the annual report for 2020, and the annual report did not include any descriptions or narrative related to the required information for a Permittee's follow-up related to benchmark value exceedances, including no information on any Level 1 corrective actions. Additional benchmark exc
S3 Stormwater Pollution Prevention Plan (SWPPP)	In accordance with ISGP S3.B.4.b, the Permittee must justify each mandatory BMP omission in the SWPPP. The SWPPP, Table C.1, does not justify the omission of the vacuum sweeping BMP requirement. No staff SWPPP training log information or other training documentation was available or provided for 2020 and 2021.
S9 Reporting and Recordkeeping	WEC failed to submit an accurate DMR for Q4 2020 because the DMR failed to include the sampling results produced by Edge Analytical on January 4, 2021 regarding the WEC's December 18, 2020 stormwater sampling at MP-1. Late DMR submittals 4/1/24, 10/1/22, 7/1/22, 4/1/22, and 1/1/22 according to Washington's Permitting and Reporting Information System (PARIS).