

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

WASHINGTON BEEF, LLC

Toppenish, Washington

Respondent.

DOCKET NO. CWA-10-2026-0222

CONSENT AGREEMENT

Proceedings Under Section 309(g) of the Clean
Water Act, 33 U.S.C. § 1319(g)

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g).

1.2. Pursuant to CWA Section 309(g)(1)(A), 33 U.S.C. § 1319(g)(1)(A), the EPA is authorized to assess a civil penalty against any person that has violated CWA Section 301, 33 U.S.C. § 1311, and/or any permit condition or limitation in a permit issued under CWA Section 402, 33 U.S.C. § 1342.

1.3. CWA Section 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B), authorizes the administrative assessment of Class II civil penalties in an amount not to exceed \$10,000 per day for each day during which the violation continues, up to a maximum penalty of \$125,000. Pursuant to 40 C.F.R. Part 19, the administrative assessment of Class II civil penalties may not exceed \$27,378 per day for each day during which the violation continues, up to a maximum penalty of \$342,218. *See* 90 Fed. Reg. 1375 (January 8, 2025) (2025 Civil Monetary Penalty Inflation Adjustment Rule).

1.4. Pursuant to CWA Section 309(g)(1)(A) and (g)(2)(B), 33 U.S.C. § 1319(g)(1)(A) and (g)(2)(B), and in accordance with Section 22.18 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, the EPA issues,

and Washington Beef, LLC (Respondent) agrees to issuance of, the Final Order attached to this Consent Agreement.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), execution of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between the EPA and the party against whom a penalty is proposed to be assessed pursuant to CWA Section 309(g), 33 U.S.C. § 1319(g), to the Regional Administrator of the EPA Region 10, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, the EPA Region 10 (Complainant).

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CWA, together with the specific provisions of the CWA and implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

Statutory and Regulatory Framework

3.1. As provided in CWA Section 101(a), 33 U.S.C. § 1251(a), the objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

3.2. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person from any point source into waters of the United States except, *inter alia*, as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

3.3. CWA Section 502(12), 33 U.S.C. § 1362(12) defines the “discharge of a pollutant” to mean the addition of any pollutant to navigable waters from any point source.

3.4. CWA § 502(6), 33 U.S.C. § 1362(6) defines a “pollutant” to include, *inter alia*, sewage, chemical wastes, biological materials, and industrial and agricultural waste discharged into water.

3.5. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” to mean any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel or conduit from which pollutants are or may be discharged.

3.6. CWA Section 502(5), 33 U.S.C. § 1362(5), defines “person” as “an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State or any interstate body.”

3.7. CWA Section 502(7) defines “navigable waters” as “waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).

3.8. CWA Section 402(a), 33 U.S.C. § 1342(a), provides that the Administrator of the EPA may issue permits under the NPDES program for the discharge of any pollutant into the waters of the United States upon such specific terms and conditions as the Administrator may prescribe.

General Allegations

3.9. Respondent is limited liability company and a “person” under CWA Section 502(5), 33 U.S.C. § 1362(5).

3.10. At all times relevant to this action, Respondent owned and/or operated the beef processing facility located at 201 Elmwood Road in Toppenish, Washington (“Facility”).

3.11. At all times relevant to this action, the Facility discharged pollutants from one of two outfalls: Outfall 002, which discharges into Wanity Slough, and Outfall 008, which discharges into Spencer Lateral. Outfalls 002 and 008 are each a “point source” under CWA Section 502(14), 33 U.S.C. § 1362(14).

3.12. Wanity Slough is a relatively permanent tributary of the Yakima River, which is a traditionally navigable water. Spencer Lateral is a relatively permanent tributary of Harris Drain, which flows into the Yakima River, a traditionally navigable water. Wanity Slough and Spencer Lateral are each a “navigable water” under Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

3.13. Respondent has discharged pollutants from a point source at the Facility into navigable waters, within the meaning of Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

3.14. Because Respondent owned and/or operated a facility that discharged pollutants from a point source into navigable waters, Respondent and the Facility have been subject to the CWA and the NPDES program at all times relevant to this Order.

3.15. On December 12, 2009, the EPA issued NPDES Permit No. WA-005020-2 (the “Permit”), which became effective on February 1, 2010, and expired on January 31, 2015, and was administratively extended pursuant to 40 C.F.R. § 122.6. At all times relevant to this action, the Permit authorized Respondent to discharge process wastewater from the Facility into Wanity Slough and Spencer Lateral. Thus, any such discharge has been and is subject to the specific terms and conditions prescribed in the Permit.

3.16. On March 11, 2026, an authorized representative of the EPA conducted a compliance inspection of the Facility to determine Respondent’s compliance with the Permit and CWA Section 301 and 402, 33 U.S.C. § 1311 and 1342.

Violations

3.17. As described below, Respondent violated CWA Section 301, 33 U.S.C. § 1311, and the conditions and/or limitations of its Permit.

3.18. Section I.A and Tables 1 and 2 of the Permit establish effluent limitations for the discharge from Outfalls 002 and 008, respectively.

3.19. Section III.B of the Permit requires Respondent to summarize monitoring results for the Facility each month in a Discharge Monitoring Report (DMR).

3.20. When a permittee exceeds a monthly average effluent limit, the permittee is deemed to be in violation of the effluent limit each day of the month in which the exceedance occurred. When a permittee exceeds a weekly average effluent limit, the permittee is deemed to be in violation of the effluent limit for each day of the week in which the exceedance occurred. When a permittee exceeds an instantaneous effluent limit, the violation counts as one violation.

Count 1 – E. coli Effluent Exceedances

3.21. Part I.A of the Permit requires Respondent to comply with a monthly maximum of 10% of samples exceeding 200 colonies E. coli bacteria per 100 mL.

3.22. The EPA alleges that Respondent exceeded the E. coli monthly maximum effluent limitation ten times at the Facility from July 2022 to January 2026, constituting ten violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2022	<i>E. coli</i>	10%	008	17	%
February 2024	<i>E. coli</i>	10%	008	15.3	%
March 2024	<i>E. coli</i>	10%	008	17	%
July 2025	<i>E. coli</i>	10%	008	40	%
August 2025	<i>E. coli</i>	10%	008	33.3	%
September 2025	<i>E. coli</i>	10%	008	76	%
October 2025	<i>E. coli</i>	10%	008	100	%
November 2025	<i>E. coli</i>	10%	008	100	%
December 2025	<i>E. coli</i>	10%	008	14.4	%
January 2026	<i>E. coli</i>	10%	002	16.6	%

3.23. Part I.A of the Permit requires that the average monthly maximum of E. coli bacteria from the Facility shall not exceed a geometric mean of 100 colonies per 100 mL.

3.24. The EPA alleges that, from October 2025 to January 2026, Respondent exceeded the average monthly effluent limit for E. coli three times, constituting 91 violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
September 2025	<i>E. coli</i>	100 #/100mL	008	861	colonies
October 2025	<i>E. coli</i>	100 #/100mL	008	2220	colonies
November 2025	<i>E. coli</i>	100 #/100mL	008	1686	colonies

3.25. Violations of the Permit are enforceable under CWA Section 309(g), 33 U.S.C. § 1319(g).

Count 2 – Oil and Grease Effluent Exceedances

3.26. Part I.A of the Permit requires Respondent to comply with a daily maximum limitation of 15 mg/L of oil and grease discharged from the Facility.

3.27. The EPA alleges that Respondent exceeded the oil and grease daily maximum effluent limitation two times at the Facility from February 2024 to July 2025 constituting two violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
February 2024	Oil & grease	15	008	15.6	mg/L
July 2025	Oil & grease	15	008	23	mg/L

3.28. Violations of the Permit are enforceable under CWA Section 309(g), 33 U.S.C. § 1319(g).

Count 3 – Ammonia Effluent Exceedances

3.29. Part I.A of the Permit requires that the average monthly concentration of total ammonia as N from the Facility shall not exceed 2.3 mg/L at Outfall 008 and 2.9 mg/L at Outfall 002.

3.30. The EPA alleges that, from May to December 2025, Respondent exceeded the monthly average concentration limit for total ammonia eight times, constituting 246 violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
May 2025	Nitrogen, ammonia total [as N]	2.3	008	8.89	mg/L
July 2025	Nitrogen, ammonia total [as N]	2.3	008	57.17	mg/L
August 2025	Nitrogen, ammonia total [as N]	2.3	008	37.71	mg/L
September 2025	Nitrogen, ammonia total [as N]	2.3	008	30.99	mg/L
October 2025	Nitrogen, ammonia total [as N]	2.3	008	44.9	mg/L

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
November 2025	Nitrogen, ammonia total [as N]	2.3	008	91.96	mg/L
December 2025	Nitrogen, ammonia total [as N]	2.3	008	6.45	mg/L
January 2026	Nitrogen, ammonia total [as N]	2.9	002	4.64	mg/L

3.31. Part I.A of the Permit requires that the average monthly loading of total ammonia as N from the Facility shall not exceed 30.7 lbs/day.

3.32. The EPA Alleges that, from May through December 2025, Respondent exceeded the average monthly loading limit for total ammonia seven times, constituting 215 violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
May 2025	Nitrogen, ammonia total [as N]	30.7	008	53.5	lbs/d
July 2025	Nitrogen, ammonia total [as N]	30.7	008	295.6	lbs/d
August 2025	Nitrogen, ammonia total [as N]	30.7	008	202.6	lbs/d
September 2025	Nitrogen, ammonia total [as N]	30.7	008	143.1	lbs/d
October 2025	Nitrogen, ammonia total [as N]	30.7	008	251.4	lbs/d
November 2025	Nitrogen, ammonia total [as N]	30.7	008	331.5	lbs/d
December 2025	Nitrogen, ammonia total [as N]	30.7	008	39.9	lbs/d

3.33. Part I.A of the Permit requires that the daily maximum concentration of total ammonia as N in effluent from the Facility shall not exceed 9.1 mg/L at Outfall 008 and 11.2mg/L at Outfall 002.

3.34. The EPA alleges that, from May through December 2025, Respondent exceeded the daily maximum concentration limit for total ammonia eight times, constituting eight violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
May 2025	Nitrogen, ammonia total [as N]	9.1	008	55.6	mg/L
July 2025	Nitrogen, ammonia total [as N]	9.1	008	137.3	mg/L
August 2025	Nitrogen, ammonia total [as N]	9.1	008	91.6	mg/L
September 2025	Nitrogen, ammonia total [as N]	9.1	008	70.3	mg/L

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
October 2025	Nitrogen, ammonia total [as N]	9.1	008	157	mg/L
November 2025	Nitrogen, ammonia total [as N]	9.1	008	122.7	mg/L
December 2025	Nitrogen, ammonia total [as N]	9.1	008	71.8	mg/L
January 2026	Nitrogen, ammonia total [as N]	11.2	002	13.5	mg/L

3.35. Part I.A. of the Permit requires that the daily maximum loading of total ammonia as N in effluent from the Facility shall not exceed 121.4 lbs/day.

3.36. The EPA alleges that, from May through December 2025, Respondent exceeded the daily maximum loading limit for total ammonia seven times, constituting seven violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
May 2025	Nitrogen, ammonia total [as N]	121.4	008	357.9	lbs/d
July 2025	Nitrogen, ammonia total [as N]	121.4	008	663.1	lbs/d
August 2025	Nitrogen, ammonia total [as N]	121.4	008	575	lbs/d
September 2025	Nitrogen, ammonia total [as N]	121.4	008	380.4	lbs/d
October 2025	Nitrogen, ammonia total [as N]	121.4	008	921.1	lbs/d
November 2025	Nitrogen, ammonia total [as N]	121.4	008	750.5	lbs/d
December 2025	Nitrogen, ammonia total [as N]	121.4	008	426.3	lbs/d

3.37. Violations of the Permit are enforceable under CWA Section 309(g), 33 U.S.C. § 1319(g).

Count 4 – Turbidity Effluent Exceedances

3.38. Part I.A of the Permit requires that the monthly average turbidity in effluent from the Facility shall not exceed 12.4 NTU.

3.39. The EPA alleges that, from July through December 2025, Respondent exceeded the monthly average limit for turbidity six times, constituting 184 violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	Turbidity	12.4	008	164.73	NTU
August 2025	Turbidity	12.4	008	17.12	NTU
September 2025	Turbidity	12.4	008	167	NTU
October 2025	Turbidity	12.4	008	79.8	NTU
November 2025	Turbidity	12.4	008	117.84	NTU
December 2025	Turbidity	12.4	008	13.12	NTU

3.40. Part I.A of the Permit requires that the daily maximum turbidity in effluent from the Facility shall not exceed 44.2 NTU.

3.41. The EPA alleges that, from July through December 2025, Respondent exceeded the daily maximum limit for turbidity five times, constituting five violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	Turbidity	44.2	008	1006	NTU
September 2025	Turbidity	44.2	008	505	NTU
October 2025	Turbidity	44.2	008	265	NTU
November 2025	Turbidity	44.2	008	726	NTU
December 2025	Turbidity	44.2	008	49.5	NTU

3.42. Violations of the Permit are enforceable under CWA Section 309(g), 33 U.S.C. § 1319(g).

Count 5 – Dissolved Oxygen Effluent Exceedances

3.43. Part I.A of the Permit requires that the daily minimum of dissolved oxygen in effluent from the Facility shall exceed 6.8 mg/L.

3.44. The EPA alleges that, from July through October 2025, Respondent failed to exceed the daily minimum limit for dissolved oxygen four times, constituting four violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	Oxygen, dissolved [DO]	6.8	008	4.3	mg/L
August 2025	Oxygen, dissolved [DO]	6.8	008	2.3	mg/L
September 2025	Oxygen, dissolved [DO]	6.8	008	1.9	mg/L
October 2025	Oxygen, dissolved [DO]	6.8	008	3.7	mg/L

3.45. Violations of the Permit are enforceable under CWA Section 309(g), 33 U.S.C. § 1319(g).

Count 6 – Biological Oxygen Demand Effluent Exceedances

3.46. Part I.A of the Permit requires that the monthly average concentration of biological oxygen demand (BOD) from the Facility shall not exceed 30 mg/L.

3.47. The EPA alleges that, from July to November 2025, Respondent exceeded the monthly average concentration limit for BOD five times, constituting 153 violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	BOD, 5-day, 20 deg. C	30	008	254.3	mg/L
August 2025	BOD, 5-day, 20 deg. C	30	008	30.3	mg/L
September 2025	BOD, 5-day, 20 deg. C	30	008	136.1	mg/L
October 2025	BOD, 5-day, 20 deg. C	30	008	77.9	mg/L
November 2025	BOD, 5-day, 20 deg. C	30	008	35.8	mg/L

3.48. Part I.A. of the Permit requires that the monthly average loading of BOD from the Facility shall not exceed 400.3 lbs/day.

3.49. The EPA alleges that from July to October 2025, Respondent exceeded the monthly average loading limit for BOD three times, constituting 92 violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	BOD, 5-day, 20 deg. C	400.3	008	1349.4	lbs/d
September 2025	BOD, 5-day, 20 deg. C	400.3	008	654.3	lbs/d
October 2025	BOD, 5-day, 20 deg. C	400.3	008	452.7	lbs/d

3.50. Part I.A of the Permit requires that the maximum daily concentration of BOD from the Facility shall not exceed 45 mg/L.

3.51. The EPA alleges that, from July to November 2025, Respondent exceeded the maximum daily concentration limit for BOD five times, constituting five violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	BOD, 5-day, 20 deg. C	45	008	1009	mg/L
August 2025	BOD, 5-day, 20 deg. C	45	008	61	mg/L
September 2025	BOD, 5-day, 20 deg. C	45	008	429	mg/L
October 2025	BOD, 5-day, 20 deg. C	45	008	147	mg/L
November 2025	BOD, 5-day, 20 deg. C	45	008	63	mg/L

3.52. Part I.A. of the Permit requires that the maximum daily loading of BOD from the Facility shall not exceed 600.5 lbs/day.

3.53. The EPA alleges that, from July to October 2025, Respondent exceeded the maximum daily loading limit for BOD three times, constituting three violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	BOD, 5-day, 20 deg. C	600.5	008	5413	lbs/d
September 2025	BOD, 5-day, 20 deg. C	600.5	008	2022.2	lbs/d
October 2025	BOD, 5-day, 20 deg. C	600.5	008	983	lbs/d

3.54. Violations of the Permit are enforceable under CWA Section 309(g), 33 U.S.C. § 1319(g).

Count 7 – Total Suspended Solids Effluent Exceedances

3.55. Part I.A of the Permit requires that the monthly average for total suspended solids (TSS) from the Facility shall not exceed 39 mg/L.

3.56. The EPA alleges that, from July to December 2025, Respondent exceeded the monthly average effluent limit for TSS six times, constituting 184 violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	Solids, total suspended	39	008	73.7	mg/L
August 2025	Solids, total suspended	39	008	39.5	mg/L
September 2025	Solids, total suspended	39	008	68.3	mg/L
October 2025	Solids, total suspended	39	008	104.6	mg/L
November 2025	Solids, total suspended	39	008	61.4	mg/L
December 2025	Solids, total suspended	39	008	39.9	mg/L

3.57. Part I.A of the Permit requires that the monthly average loading limit for TSS shall not exceed 520 lbs/day.

3.58. The EPA alleges that in October 2025, Respondent exceeded the monthly average loading limit for TSS one time, constituting 31 violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
October 2025	Solids, total suspended	520	008	605.1	lbs/d

3.59. Part I.A of the Permit requires that the daily maximum concentration of TSS from the Facility shall not exceed 78 mg/L.

3.60. The EPA alleges that, from July to November 2025, Respondent exceeded the daily maximum concentration limit for TSS four times, constituting four violations of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	Solids, total suspended	78	008	221	mg/L
September 2025	Solids, total suspended	78	008	146	mg/L
October 2025	Solids, total suspended	78	008	134	mg/L
November 2025	Solids, total suspended	78	008	121	mg/L

3.61. Part I.A of the Permit requires that the daily maximum loading of TSS from the Facility shall not exceed 1040 lbs/day.

3.62. The EPA alleges that, in July 2025, Respondent exceeded the daily maximum loading limit for TSS one time, constituting one violation of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
July 2025	Solids, total suspended	1040	008	1242.7	lbs/d

3.63. Violations of the Permit are enforceable under CWA Section 309(g), 33 U.S.C. § 1319(g).

Violation 8 – Total Nitrogen Effluent Exceedances

3.64. Part I.A of the Permit requires that the maximum daily concentration of total nitrogen (as N) from the Facility shall not exceed 194 mg/L.

3.65. The EPA alleges that, in October 2025, Respondent exceeded the maximum daily concentration of total nitrogen one time, constituting one violation of Part I.A of the Permit.

Month of Violation	Pollutant	Permit Limit	Outfall	Value Reported	Units
October 2025	Nitrogen, total [as N]	194	008	214	mg/L

3.66. Violations of the Permit are enforceable under CWA Section 309(g), 33 U.S.C. § 1319(g).

Violation 9 – Failure to Properly Operate and Maintain Facility

3.67. Part IV.E of the Permit requires that Respondent at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the conditions of the Permit.

3.68. The EPA alleges that Respondent failed to properly operate and maintain all facilities and systems of treatment and control in violation of Part I.V.E of the Permit.

3.69. Violations of the Permit are enforceable under CWA Section 309(g), 33 U.S.C. § 1319(g).

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by CWA Section 309(g)(3), 33 U.S.C. § 1319(g)(3), the EPA has taken into account “the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.” After considering all of these factors as they apply to this case, the EPA has determined that an appropriate penalty to settle this action is \$282,895 (“Assessed Penalty”).

4.4. Respondent consents to the assessment of the Assessed Penalty set forth in Paragraph 4.3 and agrees to pay the total Assessed Penalty within 30 days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (“Filing Date”).

4.5. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA How to Make a Payment website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

4.6. When making a payment, Respondent shall:

4.6.1. Identify every payment with Respondent’s name and the docket number of this Agreement, CWA-10-2026-0222,

4.6.2. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of payment electronically to the following person(s):

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
R10_RHC@epa.gov

Steven Potokar, Compliance Officer
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
Potokar.steven@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

“Proof of payment” means, as applicable, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

4.7. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and the EPA is authorized to recover the following amounts.

4.8. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1319(g)(9). The rate of interest is the IRS “large corporate” underpayment rate.

4.8.1. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.

4.8.2. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

4.9. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

4.9.1. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

4.9.2. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

4.9.3. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.

4.9.4. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.10. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second

to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

4.11. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

4.12. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to annually send to the Internal Revenue Service (“IRS”) a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with the law.” The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent’s failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide the EPA with sufficient information to enable it to fulfill these obligations, Respondent shall complete the following actions as applicable.

4.12.1. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.

4.12.2. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN.

4.12.3. Respondent shall email its completed Form W-9 to the EPA's Cincinnati Finance Division at henderson.jessica@epa.gov within 30 days after the Filing Date of this Order per Paragraph 4.4 or within 7 days should the Order become effective between December 15 and December 31 of the calendar year. The EPA recommends encrypting IRS Form W-9 email correspondence.

4.12.4. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide the EPA's Cincinnati Finance Division with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

4.13. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.14. Except as described in Subparagraph 4.7.2, above, each party shall bear its own fees and costs in bringing or defending this action.

4.15. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in the Consent Agreement and to appeal the Final Order. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the Consent Agreement.

4.16. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.17. The above provisions are STIPULATED AND AGREED upon by Respondent and the EPA Region 10.

DATED:

FOR RESPONDENT:

Luis Rodriguez
Washington Beef, LLC

FOR COMPLAINANT:

Edward J. Kowalski
Director
Enforcement and Compliance Assurance Division
EPA Region 10