



west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11
AND THE
GROUNDWATER PROTECTION ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 12
AND THE
SOLID WASTE MANAGEMENT ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 15**

TO: Congo Corp
c/o John Hofstetter
12024 Lincoln Way East
Orville, OH 44667-9639

DATE: August 3, 2015

ORDER NO.: MM-15-08

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq., Chapter 22, Article 12, Section 1 et seq., and Chapter 22, Article 15, Section 1 et seq. to Congo Corp (hereinafter "Congo").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

Chester Facility – WV0116505

1. Congo operates an industrial bulk material storage and transfer facility located in Chester, Hancock County, West Virginia. The facility was previously covered under WV/NPDES No. WV0111457, Registration No. WVG610528.
2. On January 8, 2008, West Virginia Department of Environmental Protection (WVDEP) issued Order No. 6364 to Congo. The Order required Congo to, within six (6) months of

the effective date of the Order, apply for an individual WV/NPDES permit that would properly address wastewater and contaminated stormwater associated with its operations. In addition, the Order required Congo to establish an interim monthly monitoring schedule for certain parameters and eliminate or control runoff from stockpiled material, including mulch.

3. On July 7, 2010, WVDEP personnel conducted an inspection at the Chester facility. During the inspection, violations of the following sections of WV State Code were observed and documented.
 - a. 22-11-8.b.1-Congo allowed the discharge of industrial wastes from a point source to flow into the waters of the State without a valid WV/NPDES permit.
 - b. 22-11-1 et seq.-Congo failed comply with Order No. 6364. Specifically, Congo failed to conduct the required interim monthly sampling and reporting for storm water discharges, failed to apply for WV/NPDES individual permit coverage, and failed to eliminate or properly control runoff from the mulch pile.

As a result of the aforementioned violations, Notice of Violation (NOV) Nos. NW-EAD-070710-001 and NW-EAD-070710-002 were issued to Congo.

4. On November 12, 2010, Congo was issued WV/NPDES Water Pollution Control Permit No. WV0116505.
5. On March 7, 2013, WVDEP personnel conducted an inspection of the Chester facility. During the inspection, violations of the following sections of WV Legislative Rules and Congo's WV/NPDES permit were observed and documented:
 - a. Section C.01-The permittee failed to practice good housekeeping. Specifically, excessive scattered parts, equipment, product, and debris were observed throughout the facility.
 - b. 47CSR58 Section 7.1-Congo Corporation allowed a chemical to flow onto or under the land surface in such a manner that could have impacted groundwater quality. Spilled product was observed in puddled water at the earthen dock transfer area. Coloration of the pooled water indicated accumulation of Urea and Diammonium Phosphate, which are among the products that are offloaded in this area.
 - c. 47CSR11 Section 2.2.a-Congo Corporation failed to immediately report the aforementioned product spill to the Office of Water Resources' Emergency Notification Number.
 - d. Section C.07-The permittee failed to submit the following Discharge Monitoring Reports (DMRs) within twenty (20) days following the end of the reporting period.
 - i. 4th Quarter 2010 – Outfall 005
 - ii. 1st, 3rd, and 4th Quarters 2011 – Outfalls 001-006
 - iii. 2nd Quarter 2011 – Outfalls 001-005
 - iv. 1st, 2nd, 3rd, and 4th Quarters 2012 – No DMRs were submitted.
 - e. Section C.12-The Storm Water Pollution Prevention Plan (SWPPP) was not implemented or maintained. A copy of this document was not available for review upon request.
 - f. Section B.1-A revised SWPPP was not submitted for approval by April 1, 2011. A SWPPP, dated August 19, 2014 prepared by Hamilton & Associates, was submitted

to WVDEP personnel on September 15, 2014. WVDEP personnel have yet to approve the plan.

- g. 47CSR11 Section 9.2-Congo Corporation failed to post permanent markers. None of the thirteen (13) permitted outfalls were properly identified.
- h. 47CSR2 Section 3.2.a-Congo Corporation caused conditions not allowable in waters of the State. Specifically, discharge from one of the facility's stormwater outfalls created a distinctly visible plume in the Ohio River.
- i. Section C.20-The permittee failed to keep and have available for review a daily log with results of visual assessments of the barge loading and unloading areas.
- j. 47CSR58 Section 4.3-Congo Corporation failed to prevent outside material storage or disposal areas from potentially contaminating groundwater. Specifically, poor housekeeping at some of the storage warehouses provided routes for product to escape outside. In addition, a pile of mulch and piles of road skimmings mixed with product were stored outside without coverage or impervious pads.
- k. Appendix A.II.1-The permittee failed to properly operate and maintain the facility. Specifically, a stormwater inlet outside the maintenance shop was clogged and would not allow water to drain.
- l. Appendix A.III.2.a -During the fourth quarter of 2010, the permittee failed to provide measurements and analytical results for flow, TRC, and cyanide for outfalls 001, 002, 003, 004 and 006. During the second quarter of 2011, flow was not measured at outfall 006.
- m. Appendix A.III.3 -The permittee failed to take, preserve, and analyze DMR samples in accordance with the latest edition of Code of Federal Regulations 40CFR136. Specifically, holding times were exceeded for pH and TRC.
- n. 47CSR58 Section 4.8.a-Congo Corporation failed to provide secondary containment for above ground storage tanks that was appropriate considering the potential to contaminate groundwater. Specifically, the drain valve of the fuel storage secondary containment was found in the open position.

As a result of the aforementioned violations, NOV No. CM-TJA-030713-001 was issued to Congo.

- 6. On April 3, 2013, WVDEP personnel notified Congo by letter that WV/NPDES Permit No. WV0116505 was void due to failure to submit Annual Permit and Groundwater Protection Fees within ninety (90) days of the due date. The correspondence also advised Congo Corporation that any continued operation and/or discharge from the facility was in violation of WV State Code 22-11-1 et seq. and the Federal Clean Water Act.
- 7. On May 7, 2013, Congo's WV/NPDES Permit No. WV0116505 was rendered void for failure to pay Annual Permit and Groundwater Protection Fees. WVDEP personnel determined that Congo continued to operate throughout the remainder of 2013 without authorization pursuant to a valid WV/NPDES permit.
- 8. On January 10, 2014, WVDEP issued Order No. 7976 to Congo in response to the aforementioned violations. The Order required that Congo cease and desist any further activities previously covered by WV/NPDES Permit No. WV0116505 until past due Annual Permit and Groundwater Protection fees were paid and a valid WV/NPDES permit was obtained. In addition, the Order required that Congo contact WVDEP to conduct an inspection prior to restarting activities.

9. On January 28, 2014 and February 6, 2014, WVDEP personnel conducted inspections of the Chester facility. During the inspections, WVDEP personnel observed and documented the following violations of WV State Code:

- a. 22-11-1 et seq. and 22-11-8.b.1-Congo operated the Chester facility without authorization pursuant to a valid WV/NPDES, in violation of Order No. 7976.

As a result of the aforementioned violations, NOV Nos. W-NW-GCP-021214-001 and W-NW-GCP-021214-002 were issued to Congo.

10. On February 12, 2014, Congo completed payment of the aforementioned past due WV/NPDES Annual Permit and Groundwater Protection Fees.

11. On February 18, 2014, WVDEP reinstated Congo's WV/NPDES Permit No. WV0116505.

12. On March 13, 2014, WVDEP personnel conducted an inspection of the Chester facility. During the inspection, violations of the following sections of WV State Code, WV Legislative Rules, and Congo's WV/NPDES permit were observed and documented:

- a. 47CSR58 Section 7.1-Congo allowed petroleum products from an excavator to flow onto the ground in such a manner that could impact groundwater quality.
- b. 47CSR58 Section 4.3.a-Congo failed to provide runoff/infiltration control systems for outdoor non-containerized areas having the potential to contaminate groundwater. Specifically, a pile of mulch, piles of spilled salt, and road skimmings contaminated with product were not stored on impervious pads with impervious cover.
- c. 47CSR58 Section 4.8.a-Congo failed to provide secondary containment for above ground storage tanks that was appropriate considering the potential to contaminate groundwater. Specifically, the drain valve for the secondary containment of the fuel storage area was in the open position.
- d. 22-11-8.b.1-From May 7, 2013 to February 18, 2014, Congo operated without authorization pursuant to a valid WV/NPDES permit.
- e. 22-11-1 et seq.-Congo failed to comply with Order No. 7976. At the time of inspection, Congo had not contacted WVDEP personnel to arrange an inspection prior to restarting activities.
- f. 47CSR11 Section 9.2.b-Not all outfall markers corresponded to the correct outfalls, and outfall markers were labeled with the incorrect WV/NPDES Permit No.
- g. 47CSR11 Section 9.2.c-Outfall markers were not a minimum of three (3) feet above ground level.
- h. 33CSR5 Section 3.1.a-More than one hundred (100) waste tires were stored at Congo without authorization pursuant to a permit from WVDEP.
- i. Section C.06-Congo failed to submit the following DMRs within twenty (20) days after the reporting period: May 1, 2012 to March 13, 2014.
- j. Appendix A.III.6 -Congo failed to retain records for a period of at least three (3) years. Specifically, copies of DMRs and lab reports were not available for review.
- k. Appendix A.III.2.a -Congo failed to submit DMRs indicating the values of constituents listed in Section A of the WV/NPDES permit. Specifically, from March 7, 2013 until March 13, 2014, Congo failed to estimate flow for any of the stormwater outfalls and failed to collect stormwater samples.

- l. Section C.20-The permittee failed to keep a daily log with results of visual assessments of the barge loading/unloading areas.
- m. Section C.13-Sampling from 2010 and 2011 indicated numerous stormwater benchmark exceedances; however, the permittee had not made revisions to the SWPPP.
- n. Section C.21-A composite sampling plan was not established for outfall 003.
- o. Section C.11-Congo did not implement or maintain a Groundwater Protection Plan (GPP).
- p. Section C.12-Congo did not implement or maintain a SWPPP.
- q. Section B.1-Congo did not submit a revised SWPPP for approval by April 1, 2011.

As a result of the aforementioned violations, NOV No. CM-031314-001 was issued to Congo.

13. On June 16, 2014, WVDEP personnel conducted an inspection of the Chester facility. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:
 - a. 47CSR2 Section 3.2.a-Congo caused conditions not allowable in waters of the State by allowing spilled hydraulic oil to create a distinctly visible slick on the Ohio River.

As a result of the aforementioned violation, NOV No. W-NW-GCP-061614-001 was issued to Congo.

14. On June 24, 2014, WVDEP personnel conducted an inspection of the Chester facility. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:
 - a. 47CSR11 Sections 2.5 and 2.5.a-Congo failed to take any and all measures necessary to contain a June 16, 2014 spill of twenty-five (25) gallons of hydraulic oil and render it harmless to the waters of the State.

As a result of the aforementioned violation, NOV No. W-NW-GCP-062414-001 was issued to Congo.

15. On November 5, 2014, WVDEP personnel performed a record review and determined that Congo owed five thousand fifty dollars (\$5,050) for the 2014 Annual Permit and Groundwater Protection Fees associated with WV/NPDES Permit No. WV0116505. On November 10, 2014, the Fees were paid in full.

16. On July 3, 2015, WVDEP personnel conducted a review of the Chester facility records from the time period of October 1, 2012 through July 3, 2015. During this review, the following violation of the terms and conditions of Congo's WV/NPDES permit was observed:

- a. Appendix A.III.2 - Congo failed to submit the following DMRs within twenty (20) days following the end of the reporting period: the 4th quarter of 2012, the 1st and 2nd quarters of 2013, the 1st, 2nd, 3rd, and 4th quarters of 2014, and the 1st quarter of 2015.

Newell Facility – WVG610531

17. Congo operates an industrial bulk material transfer facility known as Congo River Terminal located in Newell, Hancock County, West Virginia. Congo was reissued WV/NPDES Water Pollution Control Permit No. WV0111457, Registration No. WVG610531, on January 18, 2010. The permit was administratively extended until December 31, 2014.
18. On September 3, 2014, WVDEP personnel conducted an inspection of the Newell facility. During the inspection, violations of the following sections of WV Legislative Rules and Congo's WV/NPDES permit were observed and documented:
 - a. 47CSR58 Section 7.1-Congo allowed a petroleum product to flow onto or under the land surface in such a manner that could impact groundwater quality. Specifically, there were several areas with hydrocarbon staining, and the ground beneath the crane was heavily stained with oil and hydraulic fluid.
 - b. Section B.17-The permittee failed to have a SWPPP or GPP.
 - c. Appendix A.III.2-The permittee failed to submit DMRs indicating the values of the constituents listed in Section A of the WV/NPDES permit. Specifically, DMRs had not been submitted to WVDEP for the past two (2) years.

As a result of the aforementioned violations, NOV Nos. GW-NW-GCP-090314-001, W-NW-GCP-090314-002, and W-NW-GCP-090314-003 were issued to Congo.

19. On March 26, 2015, WVDEP personnel and representatives of Congo met to discuss the terms and conditions of this Order.
20. On April 15, 2015, Congo submitted financial documents to WVDEP. The provided information was used to perform an economic analysis which evaluated Congo's ability to pay a civil administrative penalty.
21. On May 21, 2015, WVDEP personnel conducted an inspection of the Newell facility. During the inspection, a violation of the following sections of WV Legislative Rules and WV State Code was observed and documented:
 - a. 47CSR10 Section 4.3 and 22-11-8.b.1 – Congo failed to submit a new application within one hundred eighty (180) days before the expiration of its WV/NPDES permit. At the time of inspection, Congo was conducting industrial activity without authorization pursuant to a valid WV/NPDES permit. Specifically, a crane operator was offloading super-sacs from a barge onto a flatbed truck.

As a result of this violation, NOV No. W-NW-GCP-052115-001 was issued to Congo.

22. On July 3, 2015, WVDEP personnel conducted a review of the Newell facility records from the time period of October 1, 2012 through July 3, 2015. During this review, the following violations of the terms and conditions of Congo's WV/NPDES permit were observed:
 - a. Appendix A.III.2 - Congo failed to submit the following DMRs within twenty (20) days following the end of the reporting period: the 2nd half of 2012, the 1st half of 2013, the 2nd half of 2013, the 1st half of 2014, and the 2nd half of 2014.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq., Chapter 22, Article 12, Section 1 et seq., and Chapter 22, Article 15, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Congo shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permits and pertinent laws and rules.
2. Within thirty (30) days of the effective date of this Order, Congo shall either cease and desist all regulated activities at the aforementioned Newell facility or electronically submit an administratively complete application for WV/NPDES permit coverage for the regulated activity. Any questions regarding the application process shall be directed to WVDEP DWWM-Permitting Section at (304) 926-0495.
3. Within seven (7) days of the effective date of this Order, Congo shall begin keeping a daily log with documented visual inspections of its barge loading/unloading operation at the Chester and Newell facilities.
4. Within thirty (30) days of the effective date of this Order, Congo shall update and maintain copies of its SWPPP and GPP at the Chester and Newell facilities.
5. Within thirty (30) days of the effective date of this Order, Congo shall inspect and ensure that all secondary containment structures are properly designed and operated at the Chester and Newell facilities.
6. Within thirty (30) days of the effective date of this Order, Congo shall properly identify and label all storm water outlets at the Chester and Newell facilities.
7. Within thirty (30) days of the effective date of this Order, Congo shall develop and implement a composite sampling plan for outlet 003 at the Chester facility.
8. Within thirty (30) days of the effective date of this Order, Congo shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Congo will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan shall include, but not be limited to, provisions for remediation of hydrocarbon spills at the Chester and Newell facilities. The provisions shall include steps to identify, document, and mitigate all contaminated areas, in accordance with standards set forth in the WVDEP Groundwater Program Remediation Guidance Document. The plan shall also include provisions for confirmation sampling after remediation of hydrocarbon spills and the submittal of the confirmation sample results to WVDEP. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0116505, Permit No. WV0111457, Registration No. WVG610531, and Order No. MM-15-08. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
NW Regional Environmental Enforcement Office
2031 Pleasant Valley Road
Fairmont, WV 26554**

A copy of this plan shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

9. Within ninety (90) days upon approval of the Plan of Corrective Action all bulk materials that have the potential to contaminate groundwater must be properly stored on an impervious surface and under an impervious cover at the Chester Facility.
10. Because of Congo's West Virginia Code, Legislative Rule and permit violations, Congo shall be assessed a civil administrative penalty of forty-nine thousand one hundred eighty dollars (\$49,180) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund in accordance with the following schedule:

Payment 1 in the amount of \$4,098.33 due on or before October 1, 2015.
Payment 2 in the amount of \$4,098.33 due on or before November 1, 2015.
Payment 3 in the amount of \$4,098.33 due on or before December 1, 2015.
Payment 4 in the amount of \$4,098.33 due on or before January 1, 2016.
Payment 5 in the amount of \$4,098.33 due on or before February 1, 2016.
Payment 6 in the amount of \$4,098.33 due on or before March 1, 2016.
Payment 7 in the amount of \$4,098.33 due on or before April 1, 2016.
Payment 8 in the amount of \$4,098.33 due on or before May 1, 2016.
Payment 9 in the amount of \$4,098.33 due on or before June 1, 2016.
Payment 10 in the amount of \$4,098.33 due on or before July 1, 2016.
Payment 11 in the amount of \$4,098.33 due on or before August 1, 2016.
Payment 12 in the amount of \$4,098.37 due on or before September 1, 2016.

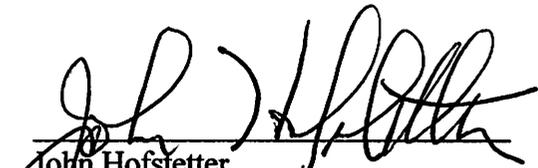
Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Congo hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21, and/or Chapter 22, Article 12, Section 11, and/or Chapter 22, Article 15, Section 16 of the Code of West Virginia. Under this Order, Congo agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Congo does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Congo other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Congo shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Congo becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Congo shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Congo intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Congo (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Congo of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Congo to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Congo, its successors and assigns.

7. This Order shall terminate upon Congo's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



John Hofstetter
Congo Corp

8-10-15

Date

Public Notice begin:

Date

Public Notice end:

Date

Scott G. Mandirola, Director
Division of Water and Waste Management

Date

RECEIVED

AUG 17 2015

**ENVIRONMENTAL
ENFORCEMENT**



Clutter and debris at the facility



Clutter and debris at the facility



Clutter and debris at the facility



Coloration of pooled water at barge loading/unloading area



Coloration of pooled water at barge loading/unloading area



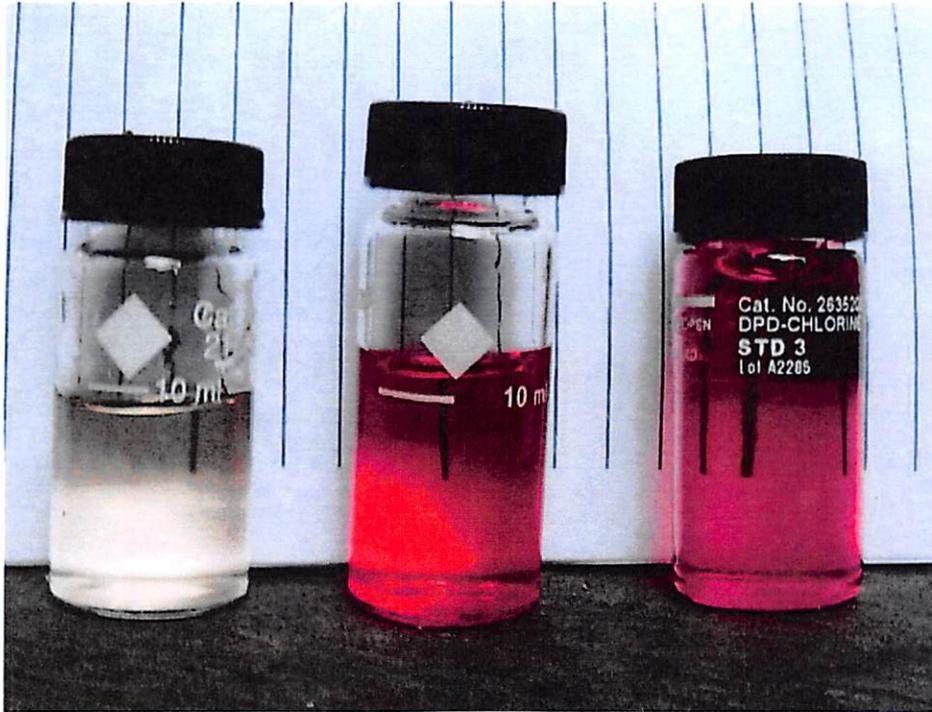
Example of outfall without marker (1 of 13 outfalls)



Stormwater outfall creating Visible Plume in Ohio River



Visible Plume in Ohio River



TRC Sample of Stormwater Outfall Left: Sample without Reagent Middle: Sample with DPD Total Chlorine Reagent (exp. Oct. 2017) Right: DPD-Chlorine Standard #3 (1.65 mg/L +/- 0.14) (exp. Oct. 2014)



Mulch Pile without cover and impervious pad



Road skimmings mixed with product



Product from storage area being tracked outside



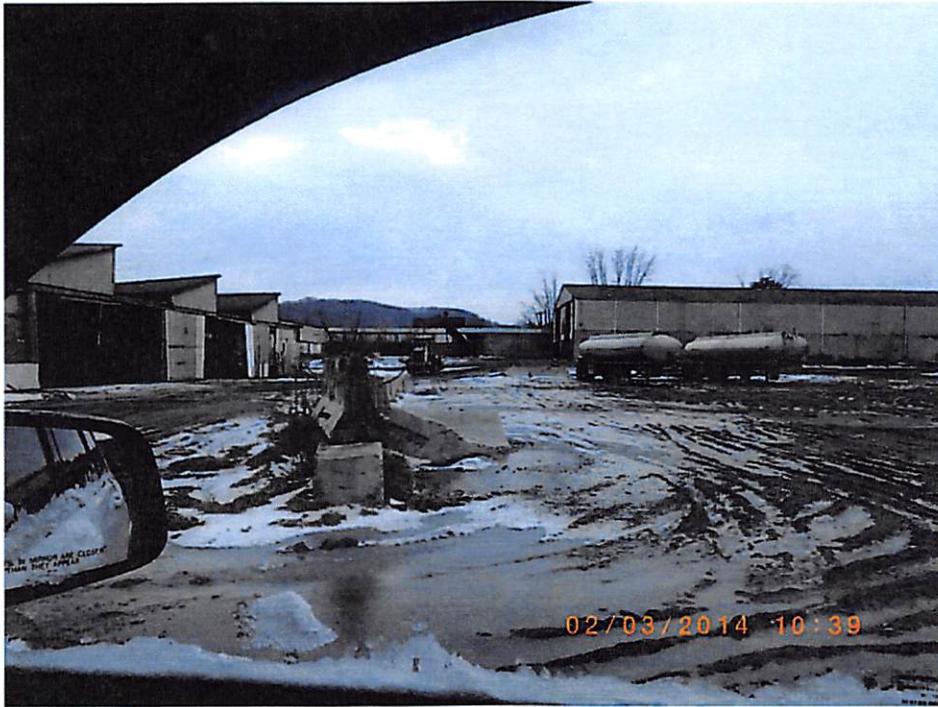
Breakthrough of product in storage buildings

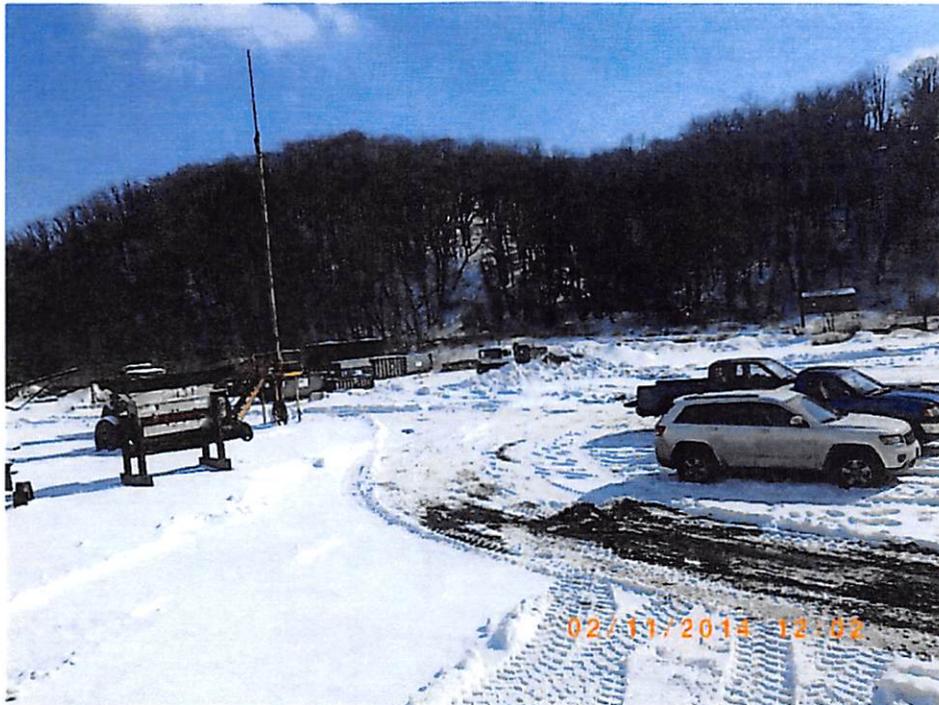


Stormwater Inlet outside Maintenance building



Secondary containment of fuel storage (drain valve was found in open position)















15		Hoopes Fertilizer	CHESDAP-55				15
16	5-14-13	Hoopes Fertilizer	CHESDAP-56	24,470		West Reser.	16
17	5-14-13	Western Reserve	CHESDAP-57	24,110		West Reser.	17
18	5-14-13	Western Reserve	CHESDAP-58	28,760		West Reser.	18
19	5-14-13	Western Reserve	CHESDAP-59	24,470			19
20	5-14-13	Western Reserve	CHESDAP-60	24,470			20
21	5-14-13	Western Reserve	CHESDAP-61	24,470		West Res.	21
22	5-14-13	Western Reserve	CHESDAP-62	27,260		West Res.	22
23	5-14-13	Western Reserve	CHESDAP-63	27,460		West Res.	23
24		Western Reserve	CHESDAP-64	26,720			24
25		Western Reserve	CHESDAP-65	29,260			25
26	5-10-13	Sylvite Sales	CHESDAP-66	28,040		Sandy Lake	26
27		Sylvite Sales	CHESDAP-67	24,430		Sandy Lake	27
28		Sylvite Sales	CHESDAP-68	31,110		Sandy Lake	28
29		Sylvite Sales	CHESDAP-69	29,750		Sandy Lake	29
30		Sylvite Sales	CHESDAP-70	29,820			30
31	5-31-13	Sylvite Sales	CHESDAP-71	24,130		Lambert PA	31
32	6-3-13	Kirby Agri.	CHESDAP-72	24,540		Kirby Agri.	32
33	6-3-13	Kirby Agri.	CHESDAP-73	24,130		Lambert PA	33
34	6-3-13	Kirby Agri.	CHESDAP-74	24,340		Lambert PA	34
35	6-4-13	Kirby Agri.	CHESDAP-75	22,410		Lambert PA	35
36	6-5-13	Kirby Agri.	CHESDAP-76				36
37	6-5-13	Agromax	CHESDAP-77	25,150		Atasca PA	37
38			CHESDAP-78				38
39			CHESDAP-79				39
40	6-6-13	Kirby Agri.	CHESDAP-80	25.15		Lambert PA	40

DAP

03/13/2014 13:36

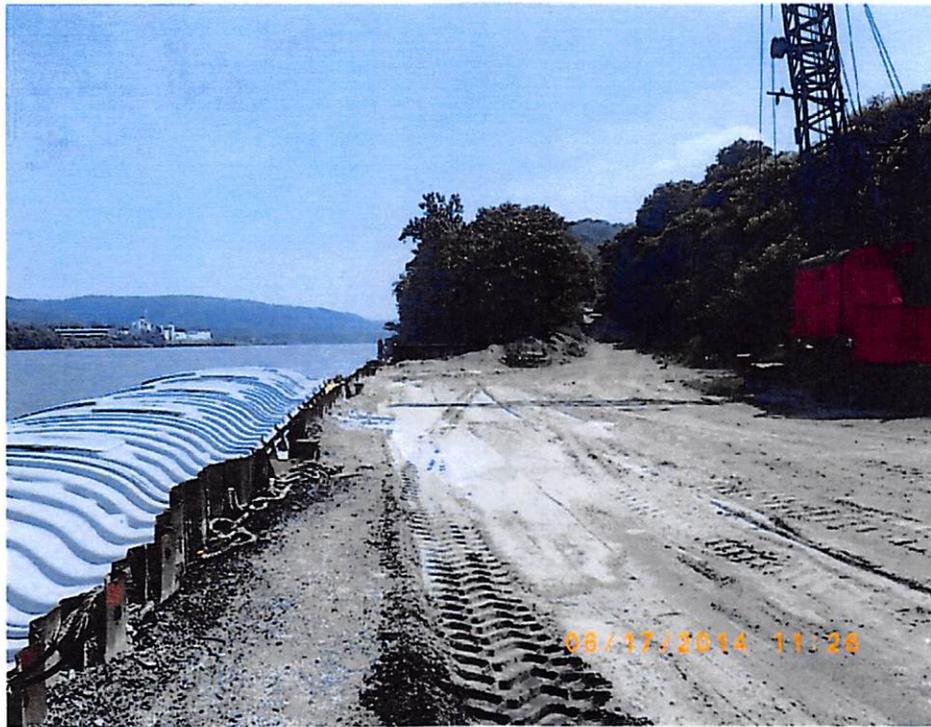
		CHESTER		PRODUCT: DAP	JIMBO412		
SHIP DATE	CUSTOMER	LOAD NUMBER	TONS SHIPPED	TONS REMAINING	SHIPPED TO		
1	5-14-13	Hoopes Fertilizer	CHESDAP-41	25,210		West Reser.	1
2		Hoopes Fertilizer	CHESDAP-42	23,720			2
3		Hoopes Fertilizer	CHESDAP-43	25,140			3
4		Hoopes Fertilizer	CHESDAP-44	24,650			4
5		Hoopes Fertilizer	CHESDAP-45	23,130			5
6		Hoopes Fertilizer	CHESDAP-46	23,180			6
7		Hoopes Fertilizer	CHESDAP-47	24,010			7
8		Hoopes Fertilizer	CHESDAP-48	25,070			8
9		Hoopes Fertilizer	CHESDAP-49	23,070			9
10		Hoopes Fertilizer	CHESDAP-50	25,880			10
11	6-4-13	Hoopes Fertilizer	CHESDAP-51	23,965		Lambert PA	11
12	6-4-13	Hoopes Fertilizer	CHESDAP-52	21,770		Lambert PA	12
13		Hoopes Fertilizer	CHESDAP-53				13
14		Hoopes Fertilizer	CHESDAP-54				14
15		Hoopes Fertilizer	CHESDAP-55				15
16	5-14-13	Hoopes Fertilizer	CHESDAP-56	24,470		West Reser.	16
17	5-14-13	Western Reserve	CHESDAP-57	24,110		West Reser.	17
18	5-14-13	Western Reserve	CHESDAP-58	28,760		West Reser.	18
19	5-14-13	Western Reserve	CHESDAP-59	24,470			19
20	5-14-13	Western Reserve	CHESDAP-60	24,470			20
21	5-14-13	Western Reserve	CHESDAP-61	24,470		West Res.	21
22	5-14-13	Western Reserve	CHESDAP-62	27,260		West Res.	22
23	5-14-13	Western Reserve	CHESDAP-63	27,460		West Res.	23
24		Western Reserve	CHESDAP-64	26,720			24
25		Western Reserve	CHESDAP-65	29,260			25
26	5-10-13	Sylvite Sales	CHESDAP-66	28,040		Sandy Lake	26
27		Sylvite Sales	CHESDAP-67	24,430	20.14	Sandy Lake	27
28		Sylvite Sales	CHESDAP-68	31,110		Sandy Lake	28
29		Sylvite Sales	CHESDAP-69	29,750		Sandy Lake	29
30		Sylvite Sales	CHESDAP-70	29,820			30
31		Sylvite Sales	CHESDAP-71	24,130		Lambert PA	31



Sheen on the Ohio River caused by hydraulic oil leaking from Congo's excavator.



- The sheen is still present. This photo was taken the day after the hydraulic oil was spilled.



A front end loader apparently took a bucket of skimmings/gravel, from the north end of the dock.



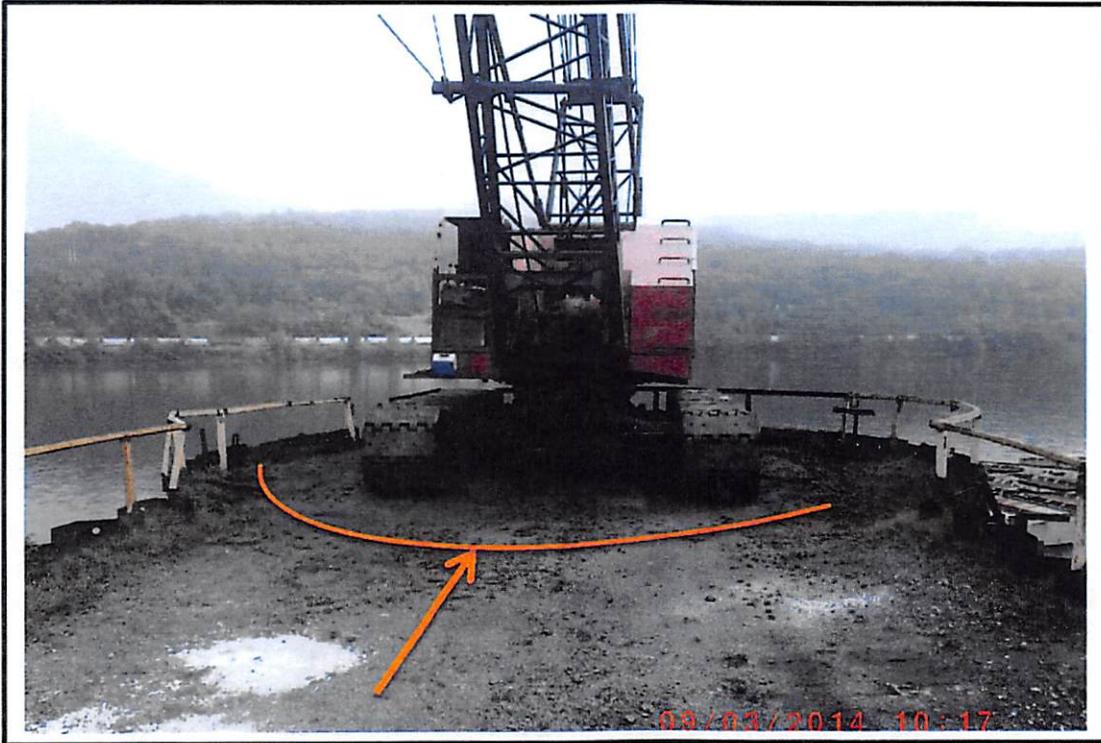
A closer view of the skimmings



The front end loader bucket of gravel/skimmings appears to have been spread over the contaminated area, without excavating the contaminated soil beforehand.



The front end loader bucket of gravel/skimmings appears to have been spread over the contaminated area, without excavating the contaminated soil beforehand.



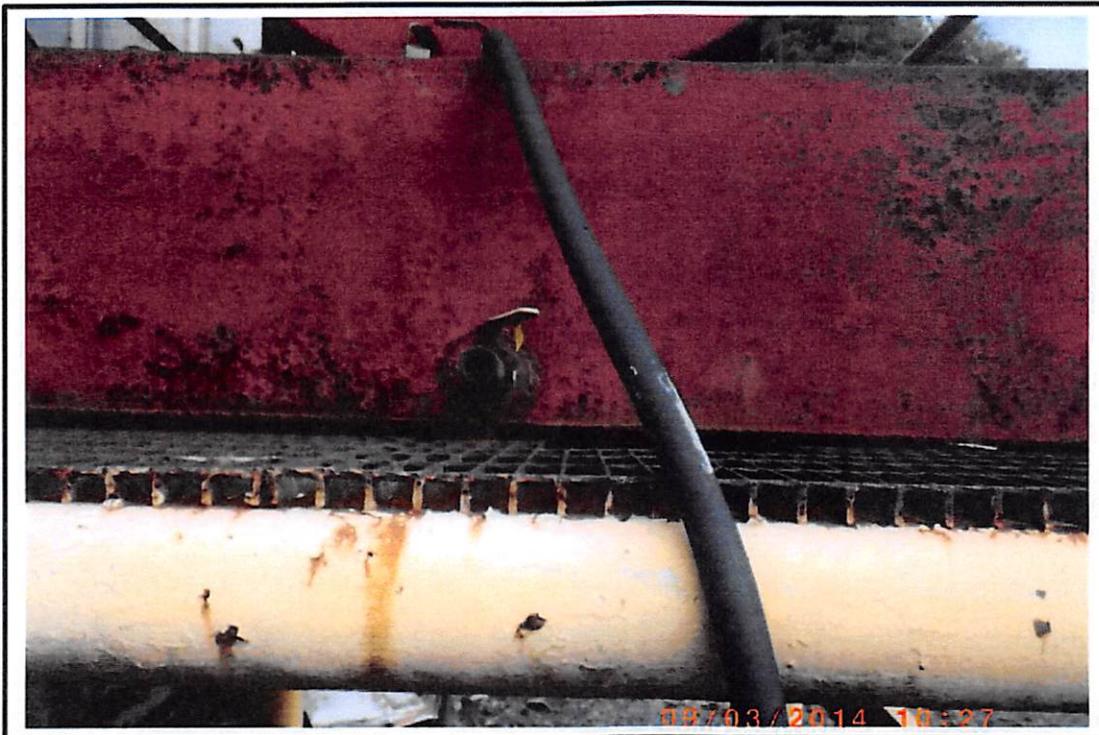
9/3/2014 – Heavy petroleum staining beneath and around the crane.



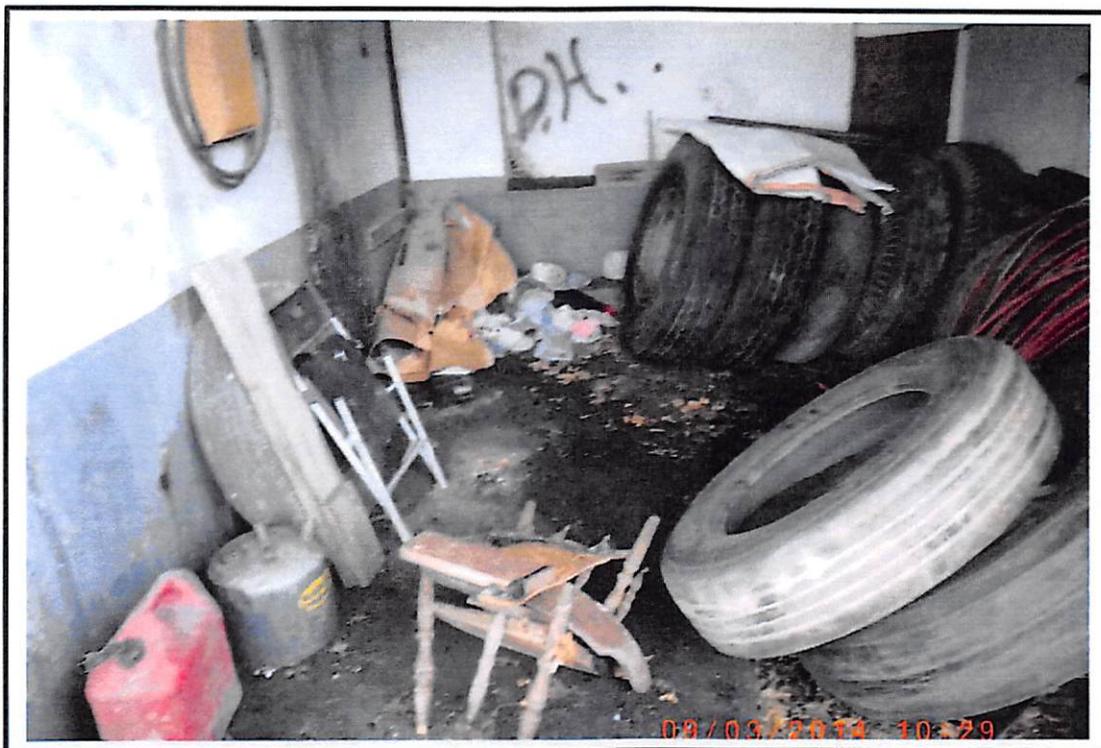
9/3/2014 – Heavy petroleum staining beneath the crane



9/3/2014 – A close up of petroleum staining around the crane.



9/3/2014 – Secondary containment valve in the open position on the bulk fuel storage tank.



9/3/2014 – Fuel containers not properly stored in secondary containment.



9/3/2014 – Outlet 001 covered with vegetation and no marker.

Congo River Terminal WVG610531



Congo River Terminal's permit expired on December 31, 2014. Barges were being offloaded on May 21, 2015.



An outfall marker has been constructed. The sign should include registration no. WVG610531.

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
12d	Moderate	Major	\$4,200	1	\$4,200
12e	Minor	Minor	\$400	1	\$400
12f, 12g	Minor	Major	\$1,700	1	\$1,700
12l	Minor	Major	\$1,800	1	\$1,800
12n	Minor	Major	\$1,700	1	\$1,700
12o	Minor	Major	\$2,000	1	\$2,000
12p	Moderate	Major	\$4,200	1	\$4,200
13a	Minor	Major	\$2,000	1	\$2,000
14a	Minor	Major	\$2,000	1	\$2,000
16a	Minor	Major	\$1,700	6	\$10,200
18b	Minor	Major	\$2,000	1	\$2,000
21a	Minor	Major	\$2,000	1	\$2,000
22a	Minor	Major	\$1,700	4	\$6,800
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$41,000

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -	10		\$4,100
6.2.b.4 - Compliance/noncompliance history	25		\$10,250
6.2.b.6 - Economic benefits - (flat monetary increase)	\$2,000		\$2,000
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease		10	(\$4,100)
6.2.b.3 - Cooperation with the Secretary		10	(\$4,100)
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			\$8,180
Penalty =			\$49,180

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	\$2,000
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$2,000
Comments: Avoided cost of 10 DMR samplings/submittals.	