



REGION 10

SEATTLE, WA 98101

RETURN RECEIPT REQUESTED

Mr. Joseph B. Anderson, Facility Operations Manager
Mr. Craig Mungas, Receiver
Building Busters, Inc. dba Contractors Concrete Recycling and
Monster Auto Wrecking, Inc.
13001 Martin Luther King Jr. Way South
Seattle, Washington 98178

Re: **NOTICE OF VIOLATION AND REQUEST FOR INFORMATION**
Building Busters, Inc. dba Contractors Concrete Recycling and
Monster Auto Wrecking, Inc.
NPDES/ISGP Permit Number WAR002153

Dear Mr. Anderson and Mr. Mungas:

The U.S. Environmental Protection Agency (EPA) appreciates your time and cooperation during EPA's September 25, 2023, Clean Water Act (CWA) inspection of the Building Busters, Inc. (dba Contractors Concrete Recycling and Monster Auto Wrecking, Inc.) facility located at 13001 Martin Luther King Jr. Way South, Seattle, Washington ("Facility"). EPA inspected the Facility and reviewed administrative files to assess the Facility's compliance with the requirements of the CWA and of the State of Washington Department of Ecology's National Pollutant Discharge Elimination System – Industrial Stormwater General Permit (ISGP).

The Building Busters, Inc. (dba Contractors Concrete Recycling and Monster Auto Wrecking, Inc.) (jointly "CCR") Facility is permitted to discharge under the ISGP #WAR002153, which became effective on January 1, 2020 and has an expiration date of December 31, 2024.

The purpose of this letter is to notify you of violations EPA has identified following the inspection and file review and to request additional information regarding CCR corrective actions and responses to these violations and the areas-of-concern identified during the inspection.

1. Failure to Immediately Clean Up Oil-Contaminated Spills and Leaks

ISGP S3.B.4.b.i.3.d. provides the Permittee must: "Clean up spills and leaks immediately (e.g., using absorbents, vacuuming, etc.) to prevent the discharge of pollutants."

For CCR Facility orientation, the Level 3 Treatment Best Management Practice (BMP) designed and installed in 2014 included both Level 1 operational BMPs and Level 2 structural source BMPs as a comprehensive treatment system package.

The Level 2 structural source BMPs included the installation of 2"-3" diversion berms along the northeast portion of the CCR Facility, near the office building and main Facility entrance off of Martin Luther King Jr. Way South (MLK) highway and along the southeast portion of the CCR Facility, along the gas station area's MLK highway shoulder to separate and segregate CCR Facility generated stormwater sheet flow run-off from getting into the King County Skyway stormwater conveyance system. These Level 2 structural diversion berms were supposed to prevent off-site sheet flow of any contaminated stormwater from CCR Facility equipment, vehicle and material storage areas, diverting those flows to catch basins connected to the then new CCR treatment system.

These diversion berms along the CCR Facility/MLK highway border are depicted in EPA's November 11, 2023 inspection report, Attachment C, that was emailed to you on November 22, 2023 and the southern diversion berms are the primary structural source BMP addressed in Violations 1 and 2 in this Notice of Violation (NOV).

On September 25, 2023, there was no apparent CCR sense of urgency to immediately mitigate and clean up ongoing oil-containing spills and leaks that were resulting in off-site oil-contaminated discharges such as discharge of oil as evidence by oil sheen in off-site stormwater sheet flow. The EPA inspector observed oil-sheen contaminated stormwater discharges "sheet flow" going off-Facility into the MLK highway right-of-way and draining to the King County Skyway stormwater conveyance system in that portion of the CCR Facility near the old gas station. This off-site oil-contaminated sheet flow was the result, in part, of the CCR Facility's failure to routinely inspect and conduct preventative maintenance to ensure the required diversion berms along the CCR Facility/MLK highway border were adequately and mechanically sound and capable of diverting off-site flows.

Absorbents had been deployed but there was no apparent CCR ongoing, immediate effort to locate and mitigate the source(s) of the oil contamination and to implement means to stop the off-site sheet flows and divert the contaminated flows back onto the CCR Facility. Additionally, there were no CCR employees in the immediate area conducting any type of ongoing clean-up effort or investigating the source(s) of the oil spills and leaks contaminating the stormwater runoff (e.g., removing and replacing soaked absorbents, attempting to divert off-Facility contaminated stormwater discharges back into the CCR Facility, no apparent CCR investigation of oil spill/leaking sources).

Failure to immediately clean up spills and leaks immediately using absorbents, vacuuming or other methods to prevent the discharge of pollutants is a violation of ISGP S3.B.4.b.i.3.d.

2. Lack of Adequate Preventative Maintenance of Diversion Berms

Preventative Maintenance. ISGP S3.B.4.b.i.3 and S3.B.4.b.i.3.b provide in relevant part as follows: "Preventative Maintenance: The SWPPP shall include BMPs to inspect and maintain the stormwater drainage, source controls, treatment systems if any, and plant equipment and

systems that could fail and result in contamination of stormwater. The SWPPP shall include the schedule/frequency for completing each maintenance task.

The Permittee must:

- b) Maintain ponds, tanks/vaults, catch basins, swales, filters, oil/water separators, drains, and *other stormwater drainage/treatment facilities* in accordance with the maintenance standards set forth in the applicable Stormwater Management Manual, other guidance documents or manuals approved in accordance with S3.A.3.c, demonstrably equivalent BMPs per S3.A.3.d, or *an O&M Manual* submitted to Ecology in accordance with S8.D. . . .” (italics added for emphasis)

Structural Source Control BMPs. ISGP S3.B.4.b.ii.a. requires: “Permittee shall: Use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from these areas.”

The CCR Facility 2015 SWPPP, Section 20, Minimum BMP Identification, includes this mandatory “grading, berming, or curbing” BMP . . . see 2015 SWPPP, pdf p. 27 of 45.

The CCR Facility 2015 SWPPP, Section 22, BMP Implementation, also incorporates by reference, the implementation of the Level 3 Treatment System O&M Manual . . . see 2015 O&M Manual, pdf p. 35 of 45.

The CCR Facility’s 2015 O&M Manual (p. 19 of 28) also specifies the following O&M requirement: “7. Diversion berms must be inspected periodically (monthly) to ensure they are mechanically sound and capable of diverting off-site flows.”

The 2015 O&M Manual, Part 10, Maintenance Schedule, notes that the entire stormwater treatment system requires periodic maintenance and this Part 10 included a Table D Monthly Stormwater System Inspection Checklist that required monthly inspection of the diversion berms, and a determination of the berms mechanical soundness and structural integrity to maintain the capability to divert off-site flows. See 2015 O&M Manual, p. 20 of 23.

On September 25, the EPA inspector observed areas of missing or severely damaged diversion berms segments in the CCR Facility area of the old gas station bordering the MLK roadway and road shoulder; i.e., diversion berms that were deemed in the CCR Facility engineering reports (2014) to be integral to the CCR Facility Level 3 Treatment BMP operations and are now, as of the September 25 observations, ineffective and not capable of diverting and preventing the oil contaminated off-site flows observed occurring on September 25, 2023, during the inspection of the old gas station area.

The failure to conduct adequate preventative maintenance of CCR Facility diversion berms is a violation of the ISGP S3.B.4.b.i.3, S3.B.4.b.i.3.b and ISGP S3.B.4.b.ii.a.

3. Inadequate Treatment System Inspections, Maintenance & Documentation

Preventative Maintenance. ISGP S3.B.4.b.i.3 and S3.B.4.b.i.3.b provide in relevant part as follows: “Preventative Maintenance: The SWPPP shall include BMPs to inspect and maintain the stormwater drainage, source controls, treatment systems (if any), and plant equipment and systems that could fail and result in contamination of stormwater. The SWPPP shall include the schedule/frequency for completing each maintenance task.

The Permittee must:

...

- b) Maintain ponds, tanks/vaults, catch basins, swales, filters, oil/water separators, drains, and *other stormwater drainage/treatment facilities* in accordance with the maintenance standards set forth in the applicable Stormwater Management Manual, other guidance documents or manuals approved in accordance with S3.A.3.c, demonstrably equivalent BMPs per S3.A.3.d, or *an O&M Manual* submitted to Ecology in accordance with S8.D. . . .” (italics added for emphasis)

ISGP S3.B.4.i.6 and ISGP S3.B.4.i.6.b require in relevant part that the SWPPP shall include documentation of procedures to ensure compliance with permit requirements for inspections and recordkeeping, and that the SWPPP shall contain a visual inspection report or checklist that includes all items required in ISGP Condition S7.C. ISGP S7.C.1. requires in part the Permittee shall record the results of each inspection in an inspection report or checklist and keep all records on-site, as part of the SWPPP, for Ecology review and additionally, the Permittee shall ensure each inspection report documents the observations, verifications and assessments required in ISGP S7.B. ISGP S7.B.6 requires in relevant part each inspection shall include an assessment of all BMPs being implemented, noting (a) effectiveness of BMPs inspected, (b) locations of BMPs that need maintenance and (c) reason maintenance is needed and schedule for maintenance.

ISGP S8.A. requires in part the Permittee to implement any applicable Level 1, 2, or 3 responses required by a previous ISGP and the Permittee shall continue to operate and maintain any source control or treatment BMPs related to the Level 1, 2, or 3 responses implemented prior to the effective date of this 2020 ISGP.

ISGP S10.C. provides in relevant part the Permittee shall apply all known and reasonable methods of prevention, control, and treatment (AKART) and that to comply with this condition, the Permittee shall prepare and implement an adequate SWPPP with all applicable and appropriate BMPs, and shall install and maintain the BMPs in accordance with the SWPPP, applicable SWMMs and the ISGP’s terms and conditions.

The CCR Facility 2015 SWPPP, Section 22, BMP Implementation, incorporates by reference, the implementation of the Level 3 Treatment System O&M Manual. See 2015 O&M Manual, pdf p. 35 of 45.

The 2015 O&M Manual for the CCR’s Level 3 Treatment BMP system requires, at least quarterly, the observation of the operating voltage of the eight Enpuriion electrocoagulation (EC) reactors installed in the treatment tank and directs the replacement of some or all of the

EC reactors if the voltage is consistently above 50V with the reactor treatment tank full or as indicated by qualified engineering support personnel. See 2015 O&M Manual, p. 11 of 23.

The 2015 O&M Manual, Part 10, Maintenance Schedule, notes that the entire stormwater treatment system requires periodic maintenance and this Part 10 included a Table D *Monthly Stormwater System Inspection Checklist* that the required monthly Treatment System inspection include the observation of various treatment system operational parameters (e.g., sand filter pressures, differential pressure ranges, tank levels, etc.). See 2015 O&M Manual, p. 20 of 23.

Additionally, the 2015 O&M Manual, Part 8.0, Record Keeping, dictated a *maintenance logbook* shall be maintained describing all maintenance activities, arranged by date and each entry must include, in relevant part, activities performed, process conditions (including approximate flow rate, tank levels and *system observations*) and recommendations. (italics added for emphasis).

As background and for context, a November 26, 2014 Lean Environmental email reported to EPA that the Level 3 Treatment BMP system was fully operational and performing as designed. A January 27, 2015 Lean Environmental email reported to EPA the treatment system had been running continually since November 2014 – except for two periods when the system was shut down and drained for a freeze protection protocol and no precipitation occurred during these shutdowns. The email stated the treatment system was fully stabilized, *although the first set of reactors are near end-of-life*. The email also stated: *“This is a normal lifespan for these reactors, and the first replacements will be installed in the next week. We anticipate reactor replacement (four of eight) next week.”* (italics for emphasis).

Additionally, in a March 5, 2015 email exchange between the inspector and Lean Environmental, the EPA inspector asked about whether the other four reactors were changed out prior to a February 26, 2015 treatment system sampling event. Lean Environmental March 5, 2015 email replied as follows in relevant part:

“The reactors were changed in two events, one in early February and the second the week before the [02/26/2015] sampling event. *The lifespan of the reactors for this application is approximately three-to-four months in the wet season, and somewhat longer in the dry season.* Annual cost of reactors is about \$12,000 – or \$1,000 per month. (CCR is paying a discounted price of \$500 per reactor.) *As the system ages, the space between “sides” will be spread out such that half of the reactors will be changed every two months or so.* Changes are required when the operational voltage of the reactors increases significantly relative to the current drawn.” (italics added for emphasis).

During the September 25, 2023 inspection Q&A discussion, Facility representatives could not recall when, if ever, any of the treatment system EC reactors had been replaced or changed out. Facility representatives did not produce for inspection review any completed treatment system monthly inspection checklists (i.e., the 2015 O&M Manual’s Part 10, Table D Monthly Inspection Checklist) or any O&M Manual-required maintenance logbook.

The CCR Facility's Discharge Monitoring Reports (DMRs) have shown benchmark exceedances for quarterly sampling of the CCR treatment system (a/k/a Outfall or Monitoring Point A in the DMR) as noted below:

Qtr-Yr	Sample Date	Pollutant Benchmark Value	Treatment System Outfall A Exceedance Value
Q3 2015	07/26/15	Copper = 14 ug/L	Copper = 33.9 ug/L
Q1 2016	01/18/16	Copper = 14 ug/L	Copper = 18.7 ug/L
Q2 2016	04/24/16	Copper = 14 ug/L	Copper = 15.4 ug/L
Q3 2017	10/19/17	Copper = 14 ug/L	Copper = 16.4 ug/L
Q1 2018	01/07/18	Copper = 14 ug/L	Copper = 27.4 ug/L
Q2 2018	04/04/18	Copper = 14 ug/L Zinc = 117 ug/L	Copper = 28.2 ug/L Zinc = 138 ug/L
No DMRs available in PARIS for Q4 2018; Q1-Q4 2019. Submitted DMRs for Q3-Q4 2020 and Q1 2021 indicate no sampling was conducted (note: these 3 DMRs did not state no discharge).			
Q1 2020	01/06/20	Copper = 14 ug/L	Copper = 17 ug/L
Q2 2020	05/02/20	Copper = 14 ug/L	Copper = 15.8 ug/L

However, none of the available CCR Facility annual reports even mentioned whether Facility staff checked the treatment system's operational parameters or equipment to determine if treatment system issues were a potential contributing cause or factor for any year in which Outfall A had a benchmark value exceedance.

In summary, the CCR Facility has inadequate Level 3 Treatment BMP system inspection and maintenance and operational activities and related lack of corroborating and supporting documentation to demonstrate the Level 3 treatment system is being inspected, adequate O&M operational parameters are being observed, monitoring and logged, and that adequate, applicable and required O&M (e.g., tank sludge measurements, sludge/solids removal, oil presence inspection and removal, EC reactor replacement and change outs, etc.) are conducted.

Failure to conduct adequate treatment system inspections, maintenance and recordkeeping are violations of the cited ISGP provisions including ISGP S3.B.4.b.i.3, S3.B.4.b.i.3.b, ISGP S3.B.4.i.6, ISGP S3.B.4.i.6.b, ISGP S7.B.6, ISGP S7.C.1, ISGP S8.A and ISGP S10.C.

4. Failure to Inspect & Sample Three Sedimentation Pond/Basin System

ISGP S7.C.1 requires that each monthly inspection shall include observations made at stormwater sampling locations and areas where stormwater associated with industrial activity is discharged off-site; or discharged to waters of the state, or to a storm sewer system that drains to waters of the state.

ISGP S4.B.2.a provides: The Permittee shall designate sampling location(s) at the point(s) where it discharges stormwater associated with industrial activity off-site.

ISGP S4.B.1.a. provides the Permittee shall sample the discharges from each designated location at least once per quarter.

Since long before the 2014 Level 3 Treatment BMP design work, the CCR Facility used and continues to use a three man-made sedimentation pond/basin/swale system located on the north portion of the CCR Facility lower yard, to the north of the 2014-installed Level 3 Treatment System.

The Lean Environmental Level 3 Treatment BMP engineering report (June 27, 2014), p. 10 of 28 describes this three man-made sedimentation pond/basin system as follows:

“The three ponds provide a measure of detention and sedimentation for the existing flow from the lower storage area. They appear to operate in series, with an outfall to the ditch on the north side of Beacon Coal Mine Road that has been upgraded to act as a bio-swale.”

Historically, this three-pond/basin/swale system has been a CCR-designated off-site discharge point and ISGP designated sampling or monitoring point using the DMR nomenclature of MP-1. *See, e.g.*, 2015 SWPPP, Part 17, Monthly Inspection Assessment, indicating that the monthly inspection should include a visual observation of the Sediment Ponds’ discharge location. *See also* Attachments B and C to the EPA’s November 11, 2023 inspection report corroborating the three pond/basin system as an off-site discharge point subject to required ISGP quarterly inspection and sampling, if applicable (i.e., no sampling if no discharge is observed).

Available DMRs for the time period of Q1 2015 through Q2 2020 include this MP-1 pond/basin designated sampling point and, there is no current available information indicating that the CCR Facility ever applied to Ecology to remove this three pond/basin/swale system as a designated monitoring or sampling point require, if applicable, quarterly sampling.

Beginning Q3 2020 and through the last DMR available to the EPA inspector, Q3 2023, at the time of the inspection report preparation, the CCR Facility DMRs fail to include this MP-1 designated sampling/monitoring report in any form within the DMR. The DMRs were completely devoid of any information that shows the CCR Facility continues to use the pond/basin system as a discharge or monitoring point.

Based on the lack of DMR documentation for MP-1, it appears to EPA that the CCR Facility is not conducting monthly inspections of the pond/basin system to determine its operational or structural condition or whether the pond/basin system is discharging off-site, requiring ISGP-based quarterly sampling.

Failure to inspect and as applicable, sample discharges from the CCR Facility’s three sedimentation pond/basin system is a violation of ISGP S7.C.1, ISGP S4.B.1.a and ISGP S4.B.2.a.

5. Lack of Site Map Locations for Pond/Basin System & Treatment System Monitoring Points

ISGP S3.B.1.k requires the SWPPP to have a site map that identifies the locations of all stormwater monitoring points.

ISGP S3.B.5.a requires the SWPPP Sampling Plan shall identify points of discharge to surface waters, storm sewers or groundwater infiltration locations.

The 2015 SWPPP lacks a specific compliant SWPPP site map that identifies the specific locations of the sampling/monitoring points for the three pond/basin system and the Level 3 Treatment System. The 2015 SWPPP sampling plan does not include any location identification descriptions for the sampling/monitoring points for these two discharging systems to off-site surface waters (i.e., the river).

During the September 25, 2023 inspection, the EPA inspector was not able to access the three pond/basin system because of the density of blackberry bushes and other substantial vegetative overgrowth. The EPA inspector could not locate or distinguish an easily accessible pathway to the three pond/basin system, and the 2015 SWPPP and other CCR Facility documents do not readily describe in detail the exact location of the pond/basin system's outfall or monitoring/sampling point.

Based on the EPA inspector's observations and without any further CCR Facility housekeeping to remove bushes/overgrowth around the pond/basin system, it was not readily obvious to the EPA inspector how the CCR Facility's current third-party inspector conducting monthly SWPPP inspections for the CCR Facility would be able to easily access this pond/basin system to make any required inspection observations and if applicable, locate the outfall for required ISGP sampling.

Also, during the September 25, 2023 inspection, the EPA inspector observed the Level 3 Treatment BMP System and could not locate the exact sampling/monitoring point that was used previously by the CCR Facility's former inspection/sampling third-party consultant, and may be used now by CCR Facility's current third-party inspector to collect treated effluent samples for the treatment system.

In addition to other revisions required for the CCR Facility 2015 SWPPP as noted in EPA's inspection report, the inspection report noted a revised site plan is needed that will identify, describe in detail and label the exact sampling/monitoring locations for the three pond/basin system and the Level 3 Treatment BMP system.

Failure to explicitly identify the exact sampling/monitoring locations for the three pond/basin system and the Level 3 Treatment BMP system is a violation of ISGP S3.B.1.k and ISGP S3.B.5.a.

6. Lack of Adequate Operational Source Control BMPs on Gravel Road

ISGP S3.B.4.b.i.1, Operational Source Control BMPs, requires the SWPPP to include operational source control BMPs listed as applicable (i.e., mandatory) in Ecology's SWMMs, or other guidance documents.

The CCR Facility 2015 SWPPP includes mandatory operational source control BMPs for the maintenance of stormwater drainage systems including the following: (1) Promptly repair any

deterioration threatening the structural integrity of the facilities; and (2) Ensure that heavy sediment discharges to the stormwater drainage systems are prevented.

During the September 25, 2023 inspection, the EPA inspector and Facility representative walked the entire gravel road from the Monster Auto Wrecking (MAW) area down to the CCR Facility's lower yard, observing the gravel road had severe rill and gully erosion directed down the gravel roadbed carrying and depositing sand, dirt and gravel. The flows appeared directed toward CB10B near the lower yard area. The gravel roadbed did not have any operational BMPs installed to slow run-off forces that gouged the gravel base and carried sediment downhill or to divert stormwater flows off into vegetated areas to prevent roadbed degradation. Heavy amounts of sediment were being eroded and carried down the substantial road grade toward CB10B potentially creating heavy sediment discharges to that catch basin and ultimately to the Level 3 Treatment BMP system.

Additionally, entrapped stormwater pools and moist sediments along the length of the gravel road contained oil sheen and oil sheen staining indicating that equipment vehicles traveling the gravel road were leaking oil products onto the roadbed.

Failure to adequately implement, maintain and repair mandatory operational source control BMPs to prevent severe erosion and heavy sediment discharges is a violation of ISGP S3.B.4.b.i.1.

7. DMR, Sampling and Annual Report Anomalies

ISGP S9.B.1, requires, in part, the Permittee shall submit sampling data obtained during each reporting period on a Discharge Monitoring Report (DMR).

ISGP S9.B.2, requires, in part, the Permittee shall ensure that DMRs are submitted to Ecology by the DMR due dates specified in the ISGP, Table 9. Table 9 generally requires an applicable quarterly DMR to be submitted within about 45 days after the end of the sampling calendar quarter.

ISGP S4.B.1.a, requires the Permittee to sample the discharge from each designated location at least once per calendar quarter.

ISGP S9.C.1, requires the Permittee to submit a complete and accurate Annual Report to Ecology. ISGP S9.C.2 dictates the Annual Report shall include corrective action documentation as required in S8.B.-D., which S9.C.3.c. requires summaries of the Level 1, 2 and 3 corrective actions completed during the previous year.

The following anomalies were identified during document reviews of CCR Facility DMR and annual report filings (or non-filings):

- No required sampling of designated sampling/monitoring reports were conducted for Q3-Q4 2020 and Q1 2021 where DMRs were submitted but acknowledge lack of sampling;

- The DMRs for Q3-Q4 2020 and Q1 2021 were submitted to Ecology extremely late – it appears these DMRs were all submitted to Ecology in July 2022.
- No DMRs were submitted to Ecology for Q4 2018 and Q1-Q4 2019;
- The 2016 annual report acknowledged copper benchmark value exceedances for Q1 and Q2 but the report failed to include and summarize any Level 2 or Level 3 corrective actions taken;
- The 2017 annual report failed to acknowledge or identify the Treatment System Outfall A's copper benchmark value exceedance that occurred in Q4;
- There is no record evidence that the CCR Facility submitted a 2018 annual report – a year in which there were at least two copper benchmark value exceedances for the Treatment System Outfall A; and
- The 2020 annual report was not completed correctly – it failed to acknowledge or identify two copper benchmark value exceedances for the Treatment System Outfall A and consequently, no required corrective actions were summarized in the annual report.

The anomalies summarized above represent violations of ISGP S9.B.1, ISGP S9.B.2, ISGP S4.B.1.a, ISGP S9.C.1, ISGP S9.C.2 and S9.C.3.c.

8. Leaking Vehicle/Equipment Needs Inspection & Maintenance

ISGP S3.B4.b.i.c, requires: "Inspect all equipment and vehicles during monthly site inspections for leaking fluids such as oil, antifreeze, etc. Take leaking equipment and vehicles out of service or prevent leaks from spilling on the ground until repaired."

During the September 25, 2023 inspection, the EPA inspector observed significant oil sheen deposits in the MAW area, on the gravel road from the upper yard to the lower yard, and in the travel area of the lower yard, especially in the bulldozer-like tread tracks and between the set of tracks in the MAW area. It appeared that a bulldozer or dozer-like tracked vehicle had been used to grade various areas and was leaking some type of petroleum fluid that result in significant, widespread oil sheen deposits. These observations were shared with Mr. Anderson during the closing conference and Mr. Anderson appeared to know exactly which dozer was suspect in leaking or spilling fluids that would have caused the oil sheen observed.

Failure to inspect all equipment monthly for leaks and to take leaking equipment and vehicles out of service or prevent leaks from spilling on the ground until repaired is a violation of ISGP S3.B4.b.i.c.

9. Lack of Employee Training Records on the SWPPP & Treatment System

ISGP S3.B.4.b.i.5, Employee Training, provides in part the SWPPP shall include BMPs to provide SWPPP training for employees who have duties in areas of industrial activity subject to the ISGP and in accord with ISGP S3.B.4.b.i.5.c and 5.d. The content of the training plan must include the frequency and schedule of training with a directive the Permittee shall train employees

annually at a minimum. The training plan must include a log of the dates on which employees received training.

The CCR Facility did not provide any staff SWPPP training log information or related training records. Mr. Anderson alluded to training a new employee to operate or oversee the Level 3 Treatment BMP system but the CCR Facility did not produce any training records showing employees were trained on the treatment system operations.

The failure to provide SWPPP training and to maintain training records is a violation of ISGP S3.B.4.b.i.5, ISGP S3.B.4.b.i.5.c and ISGP S3.B.4.b.i.5.d

10. 2015 SWPPP Needs Significant Modification & Updating

ISGP S3.A.3.a, requires the Permittee to modify the SWPPP if the owner/operator, applicable local or state regulatory authority determines during inspections or investigations that the SWPPP is, or would be, ineffective in eliminating or significantly minimizing pollutants in stormwater discharges from the site. This ISGP provision requires the Permittee to modify the SWPPP as necessary to include additional or modified BMPs to correct problems identified and to correct the deficiencies identified in writing from Ecology within 30 days of notice.

ISGP S3.A.3.b, requires the Permittee to modify the SWPPP whenever there is a change in design, construction, operation or maintenance of the facility that significantly changes the nature of pollutants discharged in stormwater from the facility or significantly increases the quantity of pollutants discharged.

ISGP S3.B.4.b.i.2, Good Housekeeping, requires the SWPPP to include BMPs that define ongoing maintenance and cleanup, as appropriate, of areas which may contribute pollutants to stormwater discharges, and requires the SWPPP must include the schedule/frequency for completing each housekeeping task, based on industrial activity, sampling results and observations made during inspections.

For context, the 2015 SWPPP was prepared when the CCR Facility upper yard industrial activity was primarily concrete recycling and processing (e.g., crushing) with the primary pollutants related to concrete make-up, concrete dust and related materials.

As observed during the September 2023 inspection, the CCR Facility upper yard has undergone a significant change in its primary industrial activity. Currently, the upper yard is almost exclusively equipment and vehicle storage, material storage and scrapping and recycling which results in more pollutants associated with the leaching, spills and leaks associated with rain-drenched exposed metals, petroleum sources, stored materials and equipment and parked vehicles. The 2015 SWPPP's current incorporated BMPs, do not reflect adequately the current primary industrial activities, especially the modified activities on the CCR Facility upper yard.

Ecology stormwater inspectors inspected the CCR Facility on May 10, 2023 and finalized the Ecology inspection report on July 28, 2023. Ecology's inspection report highlighted the significant amount of large metal objects and materials in stressing the need for good

housekeeping and cleanup BMPs. The Ecology report also stressed the CCR Facility is actively undergoing significant physical changes and that the stormwater BMPs and training of personnel have not been updated. Ecology's inspection report cited the three ISGP compliance requirements immediately cited above and requested "Completely re-write and sign a new SWPPP to current site conditions and the current permit cycle."

On the EPA inspector's information and belief, the CCR Facility had not updated the 2015 SWPPP or re-written and updated a new SWPPP in response to the Ecology inspection report's compliance citations, requests and recommendations as of the September 25, 2023 EPA inspection. Based on the EPA inspector's September 25 inspection observations, especially of the CCR Facility upper yard industrial activities, it did not appear the CCR Facility had corrected the deficiencies identified in the Ecology July 28, 2023 inspection report.

The failure to modify, revise and update the SWPPP in accord with the fact summary above is a violation of ISGP S3.A.3.a and ISGP S3.A.3.b. The failure to maintain a SWPPP with the required content referenced above is also a violation of ISGP S3.B.4.b.i.2.

11. SWPPP's BMP Applicability to Site-Specific Areas and Activities

ISGP S3.B.4.a, General BMP Requirements, provides: "The Permittee shall describe each BMP selected to eliminate or reduce the potential to contaminate stormwater and prevent violations of water quality standards. *The SWPPP must explain in detail how and where the selected BMPs will be implemented.*" (italics added for emphasis).

The overall area-of-concern is the 2015 SWPPP routinely only lists the mandatory BMPs without any SWPPP narrative explaining how and where the BMPs are to be implemented on the CCR Facility with site-specific details on where, how and when the BMPs are to be implemented.

This type of SWPPP drafting (i.e., just reciting the ISGP BMP text without site-specific detailed application) leads to inclusion of BMPs that are not even applicable to the CCR Facility (e.g., reference to inspecting and maintaining bag houses) giving an indication that the SWPPP was not adequately proofed and developed with site-specific details so that employees are trained to understand how exactly the applicable BMPs are to be implemented in various areas of the CCR Facility, including scheduling frequencies and where in or on the CCR Facility.

The failure of the SWPPP to contain site-specific details explaining how and where the selected BMPs will be implemented on the CCR Facility is a violation of ISGP S3.B.4.a.

12. Necessary SWPPP Revisions Include Site Map & Multiple Inventories

ISGP S3.B.1, requires the SWPPP contain numerous items including a Site Map and a detailed assessment of the facility – some of the Site Map's key contents are specified in S3.B.1.a.

through B.1.p, and without excluding any item, of particular relevance to this violation are the following items:

- d: Direction of stormwater flow using arrows;
- e: Locations of all structural source control BMPs;
- j: Locations of actual and potential pollutant sources; and
- o: Locations of fueling and vehicle maintenance areas.

ISGP S3.B.2, requires the facility assessment shall include, for example, an inventory of facility *activities and equipment* that contribute to or have the potential to contribute any pollutants to stormwater, and an inventory of *materials* that contribute to or have the potential to contribute pollutants to stormwater.

ISGP S3.B.2.b specifies the inventory of industrial activities must identify all facility areas with industrial activities that may be potentially sources of pollutants to stormwater.

ISGP S3.B.2.c specifies the inventory of materials shall include a list of materials handled at the site, a short narrative for each material describing pollutants associated with the materials, and an inventory of past activities and locations that might contribute pollutants to stormwater.

The Ecology's July 2023 inspection report lays out all of the site map requirements in detail that need to be added to an updated CCR Facility site map and that detailed list is incorporated by reference herein.

The current 2015 SWPPP does not adequately assess the current CCR Facility industrial activities and related inventories of materials, equipment and vehicles in light of the Facility's new primary overall emphasis, including on the upper yard, on material, equipment and vehicle storage, scrapping and maintenance for re-sale.

Without these updated inventories including specific site areas, the 2015 SWPPP does not adequately identify and target operational good housekeeping and structural source BMPs with any level of specificity on where, how and when to implement, operate and maintain the specific BMPs needed to prevent stormwater pollution.

The summaries of current 2015 SWPPP inadequacies above demonstrate the CCR Facility is in violation of provisions of ISGP S3.B.1, ISGP S3.B.2, ISGP S3.B.2.b and ISGP S3.B.2.c.

CCR is requested to respond, in writing, to the violation findings stated above **within 30 days of receipt of this letter**. Your response should include the causes of the violations and the measures taken to address the current violations and prevent future violations.

The request for information in this letter is made under the authority of Section 308 of the CWA, 33 U.S.C. § 1318. In accordance with the provisions of 40 C.F.R. § 2.203(b), you may assert a business confidentiality claim covering part or all the information submitted by clearly identifying it as "confidential." If no such claim accompanies the information when it is received by the EPA, it may be made available to the public without further notice.

Please send your response letter via email to:

Rick Cool
Compliance Officer
U.S. Environmental Protection Agency
Cool.richard@epa.gov

EPA's [Small Business Resources Information Sheet](#) provides information on compliance assistance that may be helpful to you. For more information about the CWA regulations and requirements, please visit the EPA's webpage: <https://www.epa.gov/enforcement/water-enforcement>.

Although our goal is to ensure NPDES facilities and projects comply fully with their permits, the ultimate responsibility rests with the permittee. I strongly encourage you to continue your efforts to maintain full knowledge of permit requirements, other appropriate statutes and to respond appropriately to ensure compliance. Notwithstanding your response to this letter, EPA retains all rights to pursue enforcement actions to address these and any other violations.

If you have any questions concerning this matter, please do not hesitate to contact Rick Cool, of my staff, at cool.richard@epa.gov or (206) 553-6223.

Sincerely,

Jeff KenKnight, Manager
Water Enforcement and Field Branch
Enforcement and Compliance Assurance Division