NPDES Compliance Inspection Report

Wilbur-Ellis Company

Mt. Vernon, Washington

Ecology ISGP Permit # WAR309307

Inspection Date: September 12, 2023

Prepared by:

Rick Cool
U.S. Environmental Protection Agency, Region 10
Enforcement & Compliance Assurance Division
Water Enforcement & Field Branch
Surface Water Enforcement Section

Inspector Signature/Date:

RICHARD COOL Digitally signed by RICHARD COOL
Date: 2023.11.07 15:08:48 -08'00'

Supervisor Signature/Date:

Marshalonis, Daniel (Dino) Digitally signed by Marshalonis, Daniel (Dino)
Date: 2023.11.07 14:40:53 -08'00'

Contents

(Unless otherwise noted, all details in this inspection report were obtained from conversations and communications (e.g., emails, Teams meeting, submissions, etc.) with Daryl Turner, Jay Renwick, Connie LaTour, and Matt Prasek, and from reviews of documents and direct inspection observations)

I. Facility Information

Facility Name:	Wilbur-Ellis Company – Mt. Vernon
Facility Owner/Operator:	Wilbur-Ellis Company (as of October, 2023, a/k/a Wilbur-Ellis Holdings II, Inc.)
Physical Address:	13586 Bayview Edison Road Mt. Vernon, WA 98273
Lat/Long:	48.449123, -122.472412
Mailing Address:	13586 Bayview Edison Road Mt. Vernon, WA 98273
Facility Contacts:	Daryl Turner, Location Operations Manager (plant) (360) 466-3138 (mobile) (360) 630-9625 daryl.turner@wilburellis.com Jay Renwick, Branch and Strategic Business Manager (mobile) (509) 301-7455 jrenwick@wilburellis.com
Permit Number:	WAR309307
NAICS Code:	424910 – Farm supplies; 325314 – Fertilizer manufacturing
SIC Code:	5191 – Farm supplies; 2875 – Fertilizers, mixing only
Facility Size:	Approximately 6.5 acres (2020 SWPPP, Sec. 2, Site Info)
Receiving Water:	Unnamed stream → Indian Slough → Padilla Bay

II. Inspection Information

Inspection Date:	September 12, 2023
Inspectors:	Rick Cool – EPA; Sylvia Graham – WA Ecology

Arrival Time:	9:15 AM
Departure Time:	Approximately 2:10 PM
Weather:	Cloudy, dry (occasional sprinkle).
NPDES Purpose:	To evaluate compliance with the requirements of the State of Washington Department of Ecology's National Pollutant Discharge Elimination System – Industrial Stormwater General Permit and the Clean Water Act (CWA).

III. Permit Information

The Wilbur-Ellis Company's ("WEC") Mt. Vernon facility ("Facility") is permitted under the State of Washington Department of Ecology's (Ecology) National Pollutant Discharge Elimination System (NPDES) - Industrial Stormwater General Permit (ISGP). The NPDES/ISGP tracking number assigned to the Facility is WAR309307.

The current version of Ecology's ISGP became effective on January 1, 2020 and it is set to expire on December 31, 2024.

WEC submitted an ISGP Request-for-Coverage to Ecology in February 2020 (Application ID: 26278; February 24, 2020). By letter dated July 15, 2020, Ecology issued ISGP coverage to WEC, effective July 15, 2020.

There is no current available information indicating that WEC or this Facility had any prior ISGP coverage until the July 15, 2020 coverage was issued and effective.

IV. Background

WEC provided a copy of its Stormwater Pollution Prevention Plan ("SWPPP") (SWPPP preparation date: August 7, 2020) to the EPA and Ecology inspectors during the September 12, 2023 on-site inspection. The SWPPP Amendment Log indicates an initial draft SWPPP was prepared on January 10, 2019 and an updated SWPPP prepared on February 14, 2020 for use with the WEC's Request-for-Coverage ISGP application.

The SWPPP, Sec. 2.1, states the Facility is fertilizer mixing and distribution company which conducts an extensive list of activities including but not limited to: storage and distribution of fertilizer materials; fertilizer mixing and blending; material handling, including loading and unloading; outdoor storage; and vehicle and equipment fueling and maintenance. During the opening conference, Facility representatives also indicated the Facility stores and distributes see, and both liquid and dry fertilizers and custom pesticide formulations.

The SWPPP, Sections 1.1 and 2.0, states the Facility occupies approximately 6.5 acres. The SWPPP, Sec. 2.1, states the Facility has approximately 37,100 square feet of buildings and 8,300 square feet of other impervious areas (e.g., paved areas, asphalt, concrete).

During the opening conference, Facility representatives indicated none of the Facility warehouse buildings contain floor drains and the Facility's sanitary needs are accomplished with an on-site septic system. No vehicle and equipment washing is done on-site and no routine vacuum sweeping is conducted (e.g., nothing done quarterly) but that the Facility employs routine manual sweeping and use of shop-vacs on an as needed basis. Facility catch-basins are inspected monthly and cleaned as needed but no catch basin infiltration devices (e.g., fabric filters) are employed at this time.

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During the opening conference, Facility representatives indicated WEC Facility operations began in 1984. The WEC's February 2020 ISGP Request-for-Coverage indicates WEC initiated Facility operations in January 1989.

The Facility employs approximately six (6) full time employees year round with another approximate 20 part-time, employees. Typical Facility operating hours are 5:30 a.m. into longer evening hours (e.g., until dark) in April – June, and 8:00 a.m. to 4:30 p.m. in the non-planting season and winter months.

Facility representatives and their consultant representative (from EA Engineering, Science and Technology, Inc.) indicated the 2020 SWPPP is undergoing internal review and revision.

Facility representatives indicated this SWPPP review/revision may include the submission to Ecology of the proposed elimination of the currently identified Monitoring Point No. 2 (MP2), in part, because apparently no discernible discharge point can be located on the south side of the Facility (e.g., within the Facility borders and rail right-of-way) where a stormwater flow could be sampled. The SWPPP, Sec. 2.2.1, indicates stormwater discharges from the MP2 are unlikely because the runoff generated by the apparent small drainage area is typically observed to infiltrate into the rail ballast drain rock and gravel surfaces in the area of MP2. As of the inspection date, the final decision regarding possible elimination of MP2 was under internal deliberations and pending.

V. Inspection Chronology

The Facility inspection was an announced NPDES/ISGP inspection. I sent an August 28, 2023 email to Mr. Turner introducing myself and describing the proposed ISGP inspection. In a subsequent phone communication on August 28, we arranged the September 12 inspection.

During the September 12 ISGP inspection, I was accompanied by Sylvia Graham, Ecology-Bellingham field office stormwater permit manager and inspector.

I arrived at the Facility about 8:55 a.m., and Ms. Graham joined me shortly thereafter in the Facility parking lot and about 9:15 we entered the Facility office and made initial introductions to Mr. Turner and Mr. Renwick. We were also introduced to Ms. Connie LaTour, Wilbur-Ellis

EHSS regional support manager, and Mr. Matt Prasek, project manager/compliance specialist with EA Engineering, Science, and Technology, Inc., PBC.

The Facility ISGP inspections consisted of an initial opening conference in the Facility office conference room, some limited onsite ISGP-related records review and discussion, a walk-through tour of the Facility, and ending with a closing conference of our on-site observations and preliminary areas of concern, and some requests for further documentation (e.g., secondary containment calculations, SPCC Plan).

During the opening conference, I presented my EPA-issued inspector credentials to the Facility representatives and provided a copy of an EPA Small Business Resources Information Sheet. I discussed the purpose and scope of the inspections, and gave an overview of the four-part inspection process I use for ISGP/NPDES inspections.

After completing the opening conference which included a question-and-answer (Q&A) session about Facility building operations and activities, we conducted a brief document review of some on-site ISGP-related documentation (another short Q&A session) and then conducted a walk-through of the Facility with all four Facility representatives.

As we walked through the Facility, we shared our observations and identified and discussed some general, initial preliminary areas of concern and compliance assistance suggestions.

We completed the Facility walk-through which included walk-through of all warehouse buildings and shop, the south-side Facility border along the rail spur and rail right-of-way, the railcar unloading area, areas along the south side of the Facility generally depicted as providing stormwater flow to the apparent Monitoring Point No. 2, other external loading and unloading areas, the west side tank farm, the north side new warehouse (as of approximately 2017-2018), the north side border areas including the biofiltration segments on the west, southeast and south parts, Monitoring Point No. 1 and the discharge culvert to the downstream surface waters at the southeast side of the Facility. Observations were also made of various catch basins.

We conducted a preliminary closing conference with the four Facility representatives noting the observations and areas of concern were preliminary. We also identified and requested additional documentation submissions (i.e., secondary containment calculations and the SPCC Plan).

We were accompanied throughout the ISGP inspection by the Facility representatives at all times, and we were not denied access to any portion of the Facility. We did not observe any ongoing stormwater discharges from the Facility during this inspection.

VI. Opening Conference

The opening conference started with more detailed introductions and discussion of roles and responsibilities, and a broader discussion of Facility operations and activities. The discussion included Q&A about various Facility buildings' operations, stormwater structures identified on Facility figures/maps, stormwater pollution prevention practices and industrial activities occurring in Facility locations (e.g., outside areas, inside buildings, etc.) The opening

conference summary below also includes supplemental information derived from the SWPPP and during discussions with Facility representatives during the Facility walk-through.

- WEC initiated operations of the existing fertilizer Facility operations in 1984.
- Outside north area (west of north warehouse) used for storage of fertilizer material-filled 275-gallon totes (approximately 50 – 100 totes stored).
- No fabricated dust collection systems are used at the Facility.
- No vehicle washing is conducted on-site.
- Vacuum sweeping is not conducted quarterly or otherwise – manual sweeping is conducted frequently and as needed (including use of shop-vacs).
- Catch basins are inspected monthly, cleaned out as needed but none are equipped with inlet filter infiltration devices.
- Facility has a spill prevention, control and countermeasures (SPCC) plan for small tanks (fuel and used oil) and some oil-related mobile/portable bulk storage containers (e.g., 55-gallon drums).
- Empty storage container area includes plastic-bagged, triple rinsed empty small containers in a fiberglass containment structure to prevent runoff (containment accumulations are eliminated through evaporation).
- Sediment is removed as needed from the biofiltration swales but has only been done once since approximate 2017-2018 construction about 4-5 months ago.

After completing the opening conference, we conducted a brief document review of some on-site ISGP documentation, including the 2020 SWPPP, and then conducted a Facility walk-through, always in the presence of and with the Facility representatives.

VII. File Review

The various records and documents reviewed as part of this ISGP inspection include, but are not limited to, the following list below. For example, a substantial number of Facility-related documents (e.g., DMRs, Ecology-generated documents, etc.) were uploaded from the Ecology PARIS database. WEC also provided a number of documents (e.g., monthly SWPPP-related inspection reports, etc.) during the inspection file review on September 12. Additionally, some of the files and documents reviewed are cited in other parts of this inspection report.

- Washington State Department of Ecology's NPDES/Industrial Stormwater General Permit (Issuance Date: November 20, 2019; Effective Date: January 1, 2020).

- WEC's February 2020 Request-for-Coverage submitted to Ecology.

- Ecology's July 15, 2020 letter granting the ISGP coverage effective July 15, 2020.

- WEC's Spill Prevention, Control and Countermeasure (SPCC) September 2023 completed monthly inspection form.

- WEC's August 7, 2020 SWPPP and completed/signed SWPPP certification forms.

- Ecology-PARIS downloaded DMR submissions for Q4 2020 through Q2 2023.
- WEC sampling documentation for December 18, 2020 and March 15, 2022 sampling events.
- Ecology-PARIS downloaded Edge Analytical Data Report (one page), dated January 4, 2021) for stormwater sample date: December 18, 2020 at Monitoring Point 1.
- Quarterly MES DMRs and as applicable stormwater lab report, chains of custody and associated stormwater sampling data for Q4 2020 through Q2 2023.
- Monthly SWPPP-based stormwater inspection reports for December 2022 through July 2023.
- WEC SWPPP training log for December 2022 for four Facility staff persons.
- Facility's ISGP-based annual reports for 2020 – 2022.
- Septic system inspection and maintenance records available from the Skagit County-maintained website for the WEC's onsite septic system.
- Grading permit documentation related to the Facility's expansion to the north side of the road to include a new warehouse and large storage/parking lot areas surrounded by the agricultural field (northern boundary) and the biofiltration swale segments (e.g., west side, northeast/east sides and south sides).

As inspection follow-up and on October 20, 2023, WEC submitted to EPA a copy of an executed, WEC-management approved and self-certified SPCC Plan (dated October 2023) and a single-sheet showing secondary containment calculations for the eight (8) fertilizer aboveground storage tanks used in the Facility's west side tank farm. The October 2023 SPCC Plan also included secondary containment calculations for various oil-related bulk storage containers (e.g., tanks, drums, etc.).

VIII. Facility Walk-Through

We began the Facility walk-through by making observations of the seed storage contents of the conex storage containers on the east side of the Facility, near the Facility's entrance off Bayview-Edison road.

We then walked back to the Facility office area, attempting to identify the source and location of an apparent uncontaminated condensate discharge at or near the Facility office that was identified on a Facility SWPPP Figure 2, Site Layout map. The discharge could not be located

but it is suspected this condensate discharge might have been identified as coming from the office air conditioning system in the 2019-2020 time period during initial SWPPP drafting.

We proceeded to walk the south side of the Facility along the rail spur making observations of the areas identified in the Facility SWPPP Figure 2, Site Layout map, as the DA-2 drain rock infiltration area and the general area location identified as Monitoring Point No. 2 (i.e., MP2) on the map. We observed the rail car in-ground unloading structure, the elevator/conveyor support equipment and the rail car unloading area into the bulk fertilizer storage warehouse locations.

We entered the bag fertilizer storage warehouse and observed three totes being used for fertilizer mixing **(Photo1)**. We walked the warehouse and made observations on the north side of the building used for loading bulk fertilizers **(Photo 2)** and the truck scale area **(Photo 3)**. In the alley way of the maintenance shop, we observed numerous filled totes with no secondary containment **(Photo 4)** in the watershed to Catch Basin (CB) B1, located about 30-40 feet of where the totes were located **(Photo 5)**.

We surveyed the maintenance shop and observed the used oil tank and several oil-related drums on spill pallets **(Photo 6).** Observations were made of the empty container storage bin **(Photo 7)**, the double-walled 2000-gallon diesel fuel tank **(Photo 8)** and of the bermed concrete loading/unloading area next to the west side fertilizer tank farm **(Photos 9-11)**. We observed tote storage in the agricultural warehouse **(Photo 12)** near the sliding doors facing the maintenance shop alley which warehouse floor immediately adjacent the large doors was sloped to drain into the building.

We walked the Facility's west boundary area with neighboring Superior Solutions facility, observing the catch basins located near the septic system infiltration structure **(Photos 13-14)** and the catch basins' discharge location **(Photo 15)** into the biofiltration swale (Superior Solutions entrance area where the biofiltration swale's west segment (north-south orientation) intersects with the swale's southern segment (east-west orientation) **(Photos 17-18)**. We uncovered a large apparent discharge outlet in the swale's west bank near the swale segment intersection, the swale bank facing the Superior Solutions facility **(Photo 16)**.

Observations were made of the fertilizer material tote storage area on the north warehouse parking and storage lot area **(Photo 19)**, the north warehouse and the biofiltration swale segments leading to the Monitoring Point No. 1 **(Photos 20-24)**.

IX. Areas of Concern

Observations, document reviews, discussions and other applicable information results in the identification of the following areas of concern:

A. <u>Unpermitted Stormwater Discharges Associated with Industrial Activities</u>

The 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 an NPDES permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

The 2015 Ecology National Pollutant Discharge Elimination System (NPDES) - Industrial Stormwater General Permit (2015 ISGP) was issued on December 3, 2014. The 2015 ISGP become effective on January 2, 2015 and the expiration date was December 31, 2019.

The 2015 ISGP, S1.A provides in part: "This statewide permit applies to *facilities* conducting *industrial activities* that *discharge stormwater* to a surface waterbody or to a *storm sewer* system that drains to a surface waterbody."

The 2015 ISGP, S1.A.1 and Table 1 provide that facilities engaged in any industrial activities in Table 1 shall apply for coverage if *stormwater* from the *facility discharge*s to a surface waterbody, or to a *storm sewer* system that *discharge*s to a surface waterbody.

The 2015 ISGP's Table 1 includes industrial activities associated with chemical and allied products covered under the Standard Industrial Classification (SIC) groups 28xx.

For context, WEC submitted an ISGP Request-for-Coverage to Ecology in February 2020 (Application ID: 26278; February 24, 2020) which included SIC Code 2875 (fertilizers, mixing only) to cover industrial activities performed at the WEC Facility.

The 2020 Ecology ISGP S1.A provides in part: "This statewide permit applies to facilities conducting industrial activities that discharge stormwater to a surface waterbody or to a storm sewer system that drains to a surface waterbody."

The 2020 Ecology ISGP S1.A.1 and Table 1 provide facilities engaged in any industrial activities in Table 1 shall apply for coverage if stormwater from the facility discharges to a surface waterbody, or to a storm sewer system that discharges to a surface waterbody.

The 2020 Ecology ISGP's Table 1 includes industrial activities associated with chemicals manufacturing covered under the North American Industry Classification System (NAICS) groups' codes 325xxx.

WEC's February 2020 ISGP Request-for-Coverage to Ecology for ISGP coverage (Application ID: 26278; February 24, 2020) included NAICS Group Code 325314 (fertilizer [mixing only] manufacturing) to cover industrial activities performed at the WEC Facility.

Current evidence indicates WEC has owned and operated the Facility since at least 1989, and possibly as early as 1984. WEC submitted a Notice-of-Intent (NOI) (dated September 22, 2016) to Ecology for stormwater construction general permit (CGP) coverage for the proposed construction of the Facility's new north-side Materials Warehouse and associated equipment parking and material storage areas as identified in the WEC SWPPP Figure 3, Stormwater Map. By Ecology letter dated October 12, 2016, WEC was given CGP coverage effective October 7, 2016 (WAR304673) for this Facility expansion construction project.

WEC submitted a Notice-of-Termination (NOT), dated September 15, 2017, to Ecology for termination of the CGP coverage, in part, because the newly constructed Facility expansion area and warehouse area had undergone final stabilization. Ecology notified WEC, by letter dated September 29, 2017, the CGP coverage had been terminated as of September 21, 2017.

Available information indicates the Facility, as modified by the 2016-2017 construction of the new north-side Materials Warehouse and associated equipment parking and material storage areas, did not have Ecology ISGP coverage for any Facility stormwater discharges associated with industrial activities until July 15, 2020 – i.e., approximately 34 months (2.8 years) after the Facility's CGP coverage was terminated.

Additionally, available information indicates the Facility's stormwater collection and conveyance/discharge infrastructure, in existence prior to the Facility's new 2016-2017 north-side expansion, were designed to discharge Facility stormwater to the WEC-associated local stormwater conveyance systems that eventually flow and discharge to Indian Slough and Padilla Bay.

For example, the WEC SWPPP Site Layout – Figure 2 and WEC SWPPP Stormwater Map – Figure 3, shows all five catch basins (i.e., CB-A1, A2, A3, B1 and C1) have pre-2016/2017 connections to the roadside swale (e.g., drainage ditch). This pre-existing roadside swale was subsequently reconstructed in the 2016/2017 expansion to be the current biofiltration swale that discharges stormwater off-site via MP-1.

The 2020 SWPPP, Part 2.2.2 (page 11) explains that stormwater runoff in the approximate 6-acre Discharge Area-1 (DA-1) from the area south of the central swale (i.e., the current east-west oriented biofiltration swale along the north side of the access road) includes stormwater from roof downspouts, stormwater captured by various catch basins in the area, and sheet flow directly to the central swale. The area is generally flat, slightly graded to the catch basins and north to the central swale. Stormwater that does not infiltrate flows to the five (5) catch basins with conveyance systems connected to the central swale or sheet flows north directly into the central swale.

The Skagit County 2016 grading permit package (230 pdf pages) includes a July 12, 2012 Graham-Bunting Associates letter indicating WEC purchased the entire parcel (i.e., area for the new north-side Material Warehouse, equipment parking and material storage) north of the pre-existing Facility in 2011 with the intent to expand the pre-existing Facility onto the area north of the pre-existing Facility. *See* GBA Letter, p. 2 (package pdf page 56 of 230).

The Skagit County 2016 grading permit package includes a Wilbur-Ellis Site Expansion Stormwater Site Plan (dated July 25, 2016) prepared by Sound Development Group, LLC which describes existing conditions (pre-expansion construction) regarding the east-west oriented access road that bifurcates the entire WEC-owned north and south side parcels – this road runs from the Bayview-Edison Road to the Superior Solutions, Inc. facility.

The Site Plan includes the following excerpt at the Site Plan's page 7 (package pdf page 28 of 230):

> The southern end of the proposed development area flows directly to an existing roadside swale along the north side of the access road. This existing swale conveys stormwater from the southwest comer of the site to the southeast comer. The water is conveyed under the existing gravel drive, continues east along Bayview-Edison Road, to discharge to the Indian Slough tributary. The Indian Slough tributary conveys they (sic) water north, to a set of tide gates, discharging to the Padilla Bay.

The Site Plan, page 12 (package pdf page 33 of 230) also summarizes the ultimate stormwater discharge pathway for the WEC Facility as follows:

> The runoff from the developed site will discharge as it historically does; the northern portion of the site will sheet flow north to be captured within the Indian Slough tributary; the remainder of the site will be captured within the bordering wet swales bounding the west, south and east edges of the property. The wet swales will discharge to the Indian Slough tributary approximately 1000' downstream. All water will eventually reach the tide gate at the Indian Slough, and Padilla Bay.

The Skagit County 2016 grading permit package also includes some Sound Development Group, LLC August 2016 plan sheets (package pdf pages 224-230 of 230) showing existing conditions with several then-existing Facility catch basin connections to the access road's north-side existing swale. *See, e.g.,* Sheet 5 of 7 identifying the connection of CB-C1 to the existing swale and the 8-inch diameter culvert (north-south orientation) serving WEC's CBs A1-A3, entering the existing roadside swale in the southwest corner of the WEC's north-side parcel.

In summary, available information indicates the Facility has historically had stormwater collection and discharge conveyance systems in place and in operation even before the completion of the Facility's 2016-2017 north-side expansion and establishment of the newly upgraded biofiltration swale (i.e., the upgrading the existing roadside stormwater conveyance swale). Accordingly, discharges of stormwater associated with Facility industrial activities through Facility stormwater collection and conveyance systems pre-existed WEC's 2016-2017 expansion were unpermitted and additionally, such stormwater discharges associated with industrial activity were unpermitted even after the CGP coverage termination in September 2017 until the eventual ISGP July 15, 2020 coverage for the expanded Facility footprint.

B. <u>Lack of Adequate (Secondary) Containment</u>

ISGP S3.B.4.b.i.4.a provides the Permittee shall: "Store all hazardous substances, petroleum/oil liquids, and other chemical solid or liquid materials that have potential to contaminate stormwater on an impervious surface that is surrounded with a containment berm or dike that is capable of containing 10% of the total enclosed tank volume or 110% of the volume contained in the largest tank, *whichever is greater*, or use double-walled tanks." (italics added for emphasis)

There are four Facility situations with a lack of adequate (secondary) containment as required by the cited ISGP containment requirement above:

1. The Facility is storing upwards of 50 – 100 totes (e.g., 275-gallons or more per tote) containing fertilizer materials on the Facility's north-side equipment parking and material storage area (near Facility's western boundary), outside of containment and immediately adjacent to the Facility's west-side biofiltration swale (north-south orientation). *See, e.g.,* **Photos 18 and 19**.

2. The Facility is storing upwards of 10 – 15 totes (e.g., 275-gallons per tote) containing fertilizer materials outside of containment near the maintenance shop approximately 35-40 feet from Catch Basin (CB) – B1. *See, e.g.,* **Photos 4 and 5**.

3. The Facility's October 2023 secondary containment calculations for Fertilizer Tanks 1 and 2 (each tank volume at 6000 gallons) in the Facility west-side fertilizer tank farm show an available containment volume (secondary) of 6541 gallons. However, 110% of the largest tank at 6000 gallons means the required available containment must be at least 6600 gallons, indicating a containment shortage of 59 gallons. Based on the Facility's measurements and related calculations, the two-tanks' containment is adequate to contain the entire content of the largest tank (not taking into account any accumulated precipitation); however, the available containment is just 59 gallons short of meeting the ISGP containment requirement.

4. The Facility's October 2023 SPCC Plan, Appendix B, Secondary Containment Capacity Calculations, for the fuel storage shed's two fuel tanks (each 320 gallons), show the total available storage containment at 342 gallons for each tank. However, 110% of the largest tank is 352 gallons, indicating an available containment shortage of 10 gallons. This containment situation (because the oil storage tanks are in-doors, not exposed to precipitation accumulation) would meet the secondary containment requirements of EPA's 40 C.F.R. Part 112.8(c)(2) for oil-related bulk storage containers. Based on the Facility's measurements and related calculations, each of the two-tanks' separate available containment is adequate to contain the entire content of the largest tank (not taking into account any accumulated precipitation); however, each available containment is about 10 gallons short of meeting the ISGP containment requirement.

C. <u>Lack of SWPPP Documentation of Tote Containment Adequacy Assessments and Determinations</u>

ISGP S3.B.4.b.i.4.a provides the Permittee shall: "Store all hazardous substances, petroleum/oil liquids, and other chemical solid or liquid materials that have potential to contaminate stormwater on an impervious surface that is surrounded with a containment berm or dike that is capable of containing 10% of the total enclosed tank volume or 110% of the volume contained in the largest tank, whichever is greater, or use double-walled tanks."

During the Facility walk-through, there were two situations observed where fertilizer material containing totes were being stored inside a warehouse without any apparent, visible, documented containment (secondary). *See* **Photos 1 and 12**. In the Photo 12 tote storage situation, the warehouse concrete floor in front of the pictured east side doors was

sloped inward, and Facility representatives appeared to be confident the buildings themselves would provide adequate secondary containment for both situations.

The area-of-concern is the 2020 SWPPP does not document and explain the underlying facts, assessments, determinations and reasons why WEC apparently believes compliant containment is provided by the building(s) for these two fertilizer material containing tote-storage situations in accord with the cited ISGP containment requirement above.

If WEC and its consultant assessed and determined the building(s) itself and the specific tote storage location of these totes within any particular building complied with the ISGP containment requirement, the SWPPP narrative should be updated and expanded to explain what assessments were made and how these situations comply, and how it was determined the storage situations comply or are at least equally equivalent to the cited ISGP containment requirement.

D. <u>Lack of Filtration BMPs and Maintenance on Catch Basins</u>

ISGP S3.B.4.b.v.2 states in part: "The Permittee shall implement and maintain: . . . 2) Filtration BMPs to remove solids from catch basins, sumps, or other stormwater collection and conveyance system components (catch basin filter inserts, filter socks, modular canisters, sand filtration, centrifugal separators, etc.).

The 2020 SWPPP, Part 4.5 (pp. 25-26) states in relevant part as follows:

> This [2020] SWPPP includes BMPs necessary to prevent the erosion of soils and other earthen materials, control off-site sedimentation, and prevent violations of water quality standards. The Permittee shall implement and maintain:
> . . .
> • Filtration BMPs to remove solids from catch basins, sumps or other stormwater collection and conveyance system components (filter socks, modular canisters, sand filtration, centrifugal separators, etc.).

ISGP S3.B.4.a – General BMP Requirements, states in part: "The SWPPP must explain in detail how and where the selected BMPs will be implemented."

The 2020 SWPPP did not explain in detail what Filtration BMPs should have been implemented and maintained at the five (5) catch basins located in DA-1, south of the central biofiltration swale; i.e., the 5 catch basins that ultimately discharge to the biofiltration swale. During the inspection walk-through, none of the catch basins observed had filter inserts, filter socks or any other installed filtration BMP to address eroded soils and earthen materials from flowing into and through the catch basins.

<u>Preventative Maintenance</u>. 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. . . ."

The 2019 SWMMWW includes S417 – *BMPs for Maintenance of Stormwater Drainage and Treatment Systems*, which provides in relevant part:

- First bullet: Inspect and clean treatment BMPs, conveyance systems, and catch basins as needed, and determine necessary O&M improvements.

The 2020 SWPPP, Part 4.1.3, Preventative Maintenance (p. 22) included catch basin maintenance provisions; however, during the Facility walk-through, Facility representatives indicated the catch basins were routinely inspected but no routine cleaning was conducted. Inspectors observed sediment and gravel accumulations in the catch basin conveyance system (i.e., CBs A1-A3) located west of the Facility fertilizer tank farm that needed maintenance and cleaning.

E. Lack of Quarterly Vacuum Sweeping & SWPPP Documentation of Alternative BMPs

ISGP S3.B.4.b.i.2 provides in relevant part as follows: "Good Housekeeping**:** The SWPPP shall include BMPs define ongoing maintenance and cleanup, as appropriate, of areas which may contribute pollutants to stormwater discharges. The SWPPP shall include the schedule/frequency for completing each housekeeping task, based upon industrial activity, sampling results and observations made during inspections. The Permittee shall:

a) Vacuum paved surfaces with a vacuum sweeper (or a sweeper with a vacuum attachment) to remove accumulated pollutants a minimum of once per quarter.

. . . .

The 2020 SWPPP, Part 4.1.3, Good Housekeeping (p. 22), provides in part "Vacuum paved surfaces with a vacuum sweeper (or a sweeper with a vacuum attachment) to remove accumulated pollutants a minimum of once per quarter." Similar vacuum sweeping BMPs are included in the SWPPP, Table C.1, indicating these BMPs are implemented at this Facility.

The 2020 SWPPP, Part 4 (opening paragraphs), indicates the SWPPP justifies each minimum ISGP BMP omission in the SWPPP Table C.1 if site conditions render the BMP unnecessary, infeasible, or the Permittee provides alternative and equally effective BMPs.

During the inspection, Facility representatives explained vacuum sweeping is not conducted quarterly or otherwise. Instead, Facility staff conduct manual sweeping frequently and as needed (including use of shop-vacs).

The area-of-concern is the 2020 SWPPP includes a good housekeeping vacuum BMP that has not been implemented as approved in the SWPPP by Facility management.

Additionally, the 2020 SWPPP, including Table C.1, does not document and explain the underlying facts, assessments, determinations and reasons why WEC is not conducting quarterly vacuum sweeping (e.g., no discussion of unnecessary basis or infeasibility) and how their manual sweeping alternative provides an equally effective BMP alternative.

In accord with ISGP S3.B.4.b, the Permittee must justify each mandatory BMP omission in the SWPPP. The SWPPP, Table C.1, does not justify the omission of the vacuum sweeping BMP requirement.

F. Lack of Readily Available, ISGP-Compliant Spill Kits

ISGP S3.B.4.b.i.4.c, Spill Prevention and Emergency Cleanup Plan (SPECP), provides in part: "The SWPPP shall include a SPECP that includes BMPs to prevent spills that can contaminate stormwater. The SPECP shall specify BMPs for material handling procedures, storage requirements, cleanup equipment and procedures, and spill logs, as appropriate. The Permittee shall:

. . .

c) Locate spill kits within 25 feet of all stationary fueling stations, fuel transfer stations, mobile fueling units, and used oil storage/transfer stations. . . ." This ISGP provision specifies, in detail, the actual spill kit content.

The 2020 SWPPP, Part 4.1.4 (p. 22) includes a SPECP that specifies the Permittee shall locate spill kits within 25 feet of all stationary fueling stations, fuel transfer stations, and mobile fueling units, and, at a minimum, this SWPPP provision dictates the spill kits shall include the exact list of kit contents as required by the ISGP.

During the Facility walk-through, the inspectors asked to see spill kits at three (3) specific locations: (1) the fuel shed located north of the maintenance shop that contains two fuel tanks (gasoline and diesel); (2) inside the maintenance shop near the used oil storage tank and drums; and (3) at the 2000-gallon diesel fuel AST adjacent to the west-side fertilizer tank farm.

Actual ISGP-compliant spill kits were not readily available within the 25-foot distance required in the ISGP or nearby, and only some small amount of absorbents were eventually located after some searching within the maintenance shop and in a locked storage shed adjacent to the 2000-gallon diesel fuel AST.

G. Failure to Report MP1 Sampling Results in Q4 2020 DMR

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

WEC submitted a DMR for Q4 2020 (i.e., 10/01/2020 – 12/31/2020) to Ecology that did not include any stormwater effluent sampling results and included a note/comment with Reporting Code C – No Discharge.

However, WEC also submitted to Ecology an Edge Analytical Data Report (report date: Jan. 4, 2021) indicating a stormwater sample had been taken from the Facility's Monitoring Point 1 (MP-1) on December 18, 2020 and the sample was received by the laboratory on the same day. The Data Report includes sample results for the eight (8) pollutant parameters WEC is required to sample for (including visual observation) under the ISGP Tables 2 and 3. As discussed further below, the Data Report sample results demonstrate the Facility exceeded five (5) benchmark values.

The area-of-concern is WEC failed to submit an accurate DMR for Q4 2020 because the DMR failed to include the sampling results produced by Edge Analytical on January 4, 2021 regarding the WEC's December 18, 2020 stormwater sampling at MP-1.

H. Failure to Implement Corrective Actions & Accurately Report

ISGP S9.C.1, requires in part the Permittee shall submit a complete and accurate Annual Report. ISGP S9.C.2 requires the annual report to include corrective action documentation and ISGP S9.C.3 requires the Permittee to include information in the annual report identifying the condition triggering the need for corrective action review, and to summarize any Level 1, 2 or 3 corrective actions completed during the previous year and include dates the Permittee completed the corrective actions.

ISGP S8.B, Corrective Actions, requires in part Permittees that exceed any applicable benchmark values in Tables 2 and 3 for any quarter in a calendar year shall complete Level 1 Corrective Actions for each parameter exceeded in accordance with specific actions in ISGP S8.B.1.a. - B.3.

The WEC's Edge Analytical Data Report (report date: Jan. 4, 2021) indicated a Facility stormwater sample had been taken from the Facility's MP-1 on December 18, 2020 and the sample results showed benchmark value (BMV) exceedances for the following five pollutant parameters which parameters are derived from the ISGP Tables 2 and 3:

Pollutant	BMV	Sample Result	% Exceedance
Turbidity	<= 25 NTU	90 NTU	260%
Total Copper	<= 14 ug/l	18.5 ug/l	32%
Total Zinc	<= 117 ug/l	256 ug/l	119%
Total Nitrate/Nitrite	<= 0.68 mg/l	5.05 mg/l	643%
Total Phosphorus	<= 2 mg/l	2.76 mg/l	38%

The WEC's 2020 Annual Report did not identify any evidence of WEC's Q4 benchmark exceedances at MP-1 in 2020 and the Report did not include any descriptions or narrative related to the required Report information for a Permittee's follow-up related to benchmark value exceedances, including no information on any Level 1 corrective actions. Additionally, there is no current information that WEC implemented any Level

1 corrective actions in response to the Edge Analytical December 2020 sample results showing multiple pollutant parameter benchmark value exceedances.

I. Lack of Employee SWPPP Training Documentation for 2020 and 2021

ISGP S3.B.4.b.i.5, Employee Training, provides in part the SWPPP shall include BMPs to provide SWPPP training to 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/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.

WEC provided log information of staff SWPPP training being conducted in November 2019 and December 2022. However, no staff SWPPP training log information or other training documentation was available or provided for 2020 and 2021.

J. DMR and Sampling Procedure Anomalies

pH Holding Times. ISGP S4.C states: "The Permittee shall ensure that analytical methods used to meet the sampling requirements in this permit conform to the latest revision of the Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 CFR Part 136, unless specified otherwise in this permit."

40 CFR Part 136.3, Table II, Table 1B – Inorganic Tests, requires pH samples to be analyzed within 15 minutes.

The 2020 SWPPP, Part 6.2, Benchmark Monitoring, includes Table 6.2.1, Sampling Parameters, indicating the holding time for a pH sample "Analyze within 15 minutes."

The area-of-concern is all WEC stormwater samples, including pH samples, taken for Q4 2020 and Q1 2022 were transported to the analytical laboratory for analysis, which likely did not result in the pH samples being analyzed within 15 minutes of sample collection at the Facility's MP-1. During the closing conference, Facility representatives indicated and showed pH sampling/analysis equipment that could be used for pH sampling and analysis on-site.

Sample Documentation. ISGP S4.B.4. requires the Permittee to record ISGP-specified information for each stormwater sample taken and to retain that sample documentation on-site for Ecology review.

The 2020 SWPPP, Part 6.1.3, Sampling Procedure and Documentation (p. 35), implements ISGP S4.B.4. for documenting sample information and the SWPPP's Appendix B is an example sample documentation form to be used by WEC staff.

The area-of-concern is the WEC's December 18, 2020 sample form was not completely filled out and WEC was not able to provide or produce the required sample documentation for the March 15, 2022 stormwater sampling event during the inspection.

Missing Pollutant Sample. ISGP S5.A.1 and S5.B.1 require the Permittee to sample for applicable pollutant parameters from Tables 2 and 3, which Table 3 requires WEC to sample for BOD_5 at least once per quarter.

The area-of-concern is WEC failed to sample for BOD_5 in its Q1 2022 stormwater sampling event at the Facility's MP-1. The WEC DMR included a note/comment that BOD_5 was not sampled in Q1.

K. 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 2020 SWPPP, Part 4, routinely just lists the mandatory BMPs without any narrative explaining how and where the BMP(s) are implemented on the Facility with specific site details.

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 Facility (see, e.g., 2020 SWPPP, Part 4.1.2., reference to inspecting and maintaining bag houses) giving an indication that neither the consultant or Facility staff proofed the original SWPPP to understand how exactly the applicable BMPs are to be implemented, including how (including schedule/frequencies) and where in/on the Facility.

X. Closing Conference

A closing conference was conducted after the Facility walk-through with the four Facility representatives that participated throughout the entire ISGP inspection.

During the closing conference, we discussed our inspection observations made of the Facility and reviewed documentation, preliminary findings, and next steps, including requests for additional documentation (e.g., secondary containment calculation documentation, SPCC Plan). We discussed some of the preliminary areas of concern identified during the inspection and document reviews and as some preliminary concerns are summarized above, noting these were preliminary areas of concern subject to review and revision. I gave a brief overview of the post-inspection process during the closing conference. I thanked the Facility representatives for their time, assistance and cooperation.

ATTACHMENT A – Photograph Log

(Photographs taken by Rick Cool, EPA, with a Panasonic Lumix FH-25 camera)