



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502
www.deq.idaho.gov

C.L. "Butch" Otter, Governor
Curt Fransen, Director

SEP 25 2014

VIA CERTIFIED MAIL

Terry Andrew Geis, General Manager
US Ecology Idaho, Inc.
P.O. Box 400
20400 Lemley Road
Grand View, Idaho 83624

RE: Signed Consent Order, US Ecology Idaho, Inc., Facility ID No. 073-00004

Dear Mr. Geis:

Enclosed is a copy of the signed Consent Order between US Ecology Idaho, Inc. and the Department of Environmental Quality regarding recent compliance issues discovered at the US Ecology Idaho, Inc. facility located near Grand View, Idaho. I appreciate your cooperation in resolving this matter in a timely and reasonable manner.

If you have any questions, please contact Tom Krinke at (208) 373-0550, via email at Thomas.Krinke@deq.idaho.gov, or at the address appearing in Section 17 of the enclosed Consent Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Bacom".

Steve D. Bacom
Compliance and Enforcement Coordinator, Air Quality Division

Enclosure (1) U S ECOLOGY IDAHO Proposed CO Form (2014AAJ408)

Case No. E-2014.0002

2014AAJ493

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF

US Ecology Idaho, Inc.)
10.5 miles northwest of Grand View on)
Highway 78, at Lemley Road)
Grand View, Idaho 83624)

CONSENT ORDER
Idaho Code § 39-108

- 1. Pursuant to the Idaho Environmental Protection and Health Act (EPHA), Idaho Code § 39-108, the Department of Environmental Quality (DEQ) enters into this Consent Order with US Ecology Idaho, Inc. (US Ecology) located near Grand View, Owyhee County, Idaho.
2. US Ecology is registered to do business in Idaho, and owns and operates a hazardous waste treatment, storage, and disposal facility near Grand View, Idaho. US Ecology is an air pollution source regulated under EPHA; the Rules for the Control of Air Pollution in Idaho (Rules), IDAPA 58.01.01.001 through 999; and Permit to Construct No. P-2008.0162, issued June 9, 2006 and revised on January 27, 2009 (PTC).
3. On January 31, 2004 DEQ conducted an air quality compliance inspection of the US Ecology facility. Information obtained through and subsequent to the inspection and otherwise available to DEQ revealed apparent violations of Permit Condition 4.6 of US Ecology's PTC for failing to operate the stabilization building's building ventilation baghouse and HEPA filter while conducting stabilization operations for a total of 66 separate operating days and operating the HEPA filter outside of the manufacturer's recommended pressure drop range a total of 4 separate operating days.
4. DEQ notified US Ecology of the alleged violations in correspondence dated February 26, 2014, and notified US Ecology that it had initiated a formal enforcement action in correspondence dated April 9, 2014.
5. The violations referenced in Section 3 of this Consent Order are cited as follows:

Violation Nos. 1-66

Legal Provisions Violated:

Permit to Construct No. P-2008.0162, issued June 9, 2006 and revised January 27, 2009, Page 12, Permit Condition 4.6 states in relevant part:

“Operation of Air Pollution Control Equipment

When conducting stabilizations operations, the permittee shall operate the building ventilation baghouse and HEPA filter. . . .”

Based on a review of US Ecology’s 2012 and 2013 Stabilization Building Logs, submitted to DEQ via electronic mail on February 10, 2014, DEQ determined that US Ecology failed to operate its stabilization building’s building ventilation baghouse and HEPA filter a total of 66 days while conducting stabilization operations in the Indoor Stabilization Building as required by Permit Condition 4.6 of its PTC. Stabilization operations occurred while not operating the building ventilation baghouse and HEPA filter on the following dates:

2012		2013
01/03/2012	06/02/2012	01/07/2013
01/10/2012	06/16/2012	01/12/2013
01/12/2012	06/19/2012	01/18/2013
01/17/2012	07/20/2012	01/25/2013
01/19/2012	07/23/2012	01/26/2013
01/23/2012	07/27/2012	03/11/2013
01/24/2012	07/30/2012	05/02/2013
02/03/2012	08/03/2012	06/11/2013
02/09/2012	08/13/2012	06/14/2013
02/16/2012	08/21/2012	07/22/2013
03/06/2012	08/23/2012	09/18/2013
03/12/2012	08/24/2012	10/08/2013
04/02/2012	08/27/2012	11/01/2013
04/04/2012	08/30/2012	11/11/2013
04/05/2012	09/04/2012	12/10/2013
04/09/2012	09/08/2012	12/16/2013
04/25/2012	09/11/2012	
04/26/2012	09/20/2012	
04/27/2012	09/27/2012	
05/01/2012	10/23/2012	
05/03/2012	10/29/2012	
05/04/2012	12/26/2012	
05/07/2012	12/31/2012	
05/11/2012		

Each violation has been classified as a minor Potential for Harm and minor Extent of Deviation, resulting in a \$100 penalty matrix assessment for each violation pursuant to DEQ's Air Quality Administrative Penalty Policy. The assessed penalties for Violation Nos. 1-66 have been calculated as follows:

\$100 x 66 Counts = \$6,600

Assessed Penalty: \$6,600

Violation Nos. 67-70

Legal Provisions Violated:

Permit to Construct No. P-2008.0162, issued June 9, 2006 and revised January 27, 2009, Page 12, Permit Condition 4.6 states in relevant part:

"... Each of these air pollution control devices shall be operated according to manufacturer's recommendations and specification in accordance with Permit Condition 2.1 and General Provision 2."

Based on a review of US Ecology's 2013 Stabilization Building Logs, submitted to DEQ via electronic mail on February 10, 2014, DEQ determined that US Ecology failed to operate its stabilization building's HEPA filter within the manufacturer's recommended pressure drop range (i.e., 0.7" – 4.0" wg) a total of 4 days while conducting stabilization operations in the Indoor Stabilization Building as required by Permit Condition 4.6, Permit Condition 2.1, and General Provision 2 of its PTC on the following dates:

2013
04/04/2013
11/13/2013
11/26/2013
12/05/2013

Each violation has been classified as a minor Potential for Harm and minor Extent of Deviation, resulting in a \$100 penalty matrix assessment for each violation pursuant to DEQ's Air Quality Administrative Penalty Policy. The assessed penalties for Violation Nos. 67-70 have been calculated as follows:

\$100 x 4 Counts = \$400

Assessed Penalty: \$400

Therefore, the total assessed penalties for Violation Nos. 1-70 are \$7,000.

6. On June 2, 2014, DEQ contacted US Ecology to discuss: 1) DEQ's inspection findings; 2) DEQ's February 26, 2014 and April 9, 2014 correspondence; 3) obtaining additional information regarding the waste treated at the Indoor Stabilization Building on the 66 days where the stabilization buildings logs indicate that the baghouse and HEPA filter were not operated while conducting stabilization operations; 4) obtaining additional information regarding the 4 days where the Indoor Stabilization Building HEPA filter operated outside the manufacturer's recommended pressure drop range; and 5) US Ecology's plan for correcting the alleged violations.
7. On June 12, 2014, DEQ received US Ecology's response, dated June 6, 2014, to DEQ's request for additional information. US Ecology's response included waste mix sheets and profiles for all wastes treated on the aforementioned 66 days, information regarding the 4 days the HEPA filter operated outside the manufacturer's recommended pressure drop range, a statement indicating that it is meeting its RCRA permit, and a plan for correcting the alleged violations. US Ecology's response is incorporated by reference into this Consent Order.
8. Based on a review of available information, including US Ecology's June 6, 2014 correspondence; a review of US Ecology's RCRA permit; and a review of DEQ's RCRA inspections conducted in 2009 and 2013, it appears that US Ecology has complied with the applicable requirements of its RCRA permit regarding indoor stabilization.

Module XI.B.2 of US Ecology's RCRA Permit No. IDD073114654 issued on November 12, 2004 and modified on September 23, 2011 allows it to conduct treatment utilizing stabilization at the Stabilization Facility on all hazardous wastes listed, except "fine wastes". Module XI.C.2.f requires US Ecology to maintain and operate the air pollution control equipment in accordance with the manufacturer's instructions and/or specifications. In addition to US Ecology's statement appearing in the June 6, 2014 correspondence, DEQ's 2009 and 2013 RCRA inspections revealed no apparent violations of these requirements.

9. On July 28, 2014 DEQ and US Ecology agreed that the most appropriate method for resolving the alleged violations referenced in Section 5 of this Consent Order was through a Consent Order. Therefore, DEQ and US Ecology agreed to enter directly into a Consent Order in lieu of DEQ issuing a Notice of Violation and then participating in a compliance conference as all the issues had been previously discussed as noted above.
10. In order to resolve this matter without litigation or further controversy, US Ecology agrees to the provisions of this Consent Order and the following terms and actions:

11. **OPERATION OF AIR POLLUTION CONTROL EQUIPMENT – INDOOR STABILIZATION BUILDING**

- A. In order to resolve Violation Nos. 1-66, US Ecology shall revise its PTC in order to allow for the treatment of waste material that does not meet the definition of “fine” as described in Attachment 2 Figure C-11 of its RCRA Permit (See Appendix A), in the Indoor Stabilization Building without needing to operate the building ventilation baghouse and HEPA filter and referenced in US Ecology’s June 6, 2014 correspondence.
- B. On June 5, 2014, US Ecology contacted DEQ’s Air Quality Stationary Source Permit Program to discuss its desire to revise the language of its current PTC. The details of this discussion appear in US Ecology’s June 6, 2014 correspondence.
- C. The PTC revisions shall be conducted in accordance with the requirements appearing in Section 12 of this Consent Order.
- D. Until the revised PTC required by Section 12 of this Consent Order is issued, US Ecology shall specifically comply with the requirements appearing under Permit Condition 4.6 of its current PTC.
- E. In order to resolve Violation Nos. 67-70, US Ecology shall operate its HEPA filter within the manufacturer’s recommended pressure drop range.

12. **PERMIT TO CONSTRUCT REVISION REQUIREMENTS**

- A. In order to obtain a revised PTC and fulfill the intent of Section 11.A of this Consent Order, US Ecology shall complete the following requirements within the prescribed timelines:
 - i. Within 60 days of the effective date of this Consent Order, US Ecology shall submit a complete PTC application which includes at a minimum: 1) the specific revisions required by Section 11.A of this Consent Order; and 2) the \$1,000 PTC application fee in accordance with IDAPA 58.01.01.224 and 226; and
 - ii. Pay any applicable PTC processing fees, determined and requested by DEQ, in accordance with IDAPA 58.01.01.225 and 226.

Lastly, US Ecology shall be responsible for demonstrating compliance with any other applicable state rules or federal regulations in the event it requests any additional revisions and/or modifications in its PTC application than those revisions specifically mentioned under Section 11.A of this Consent Order.

- B. If US Ecology fails to comply with any of the requirements of Section 112.A of this Consent Order, then US Ecology shall be in violation of this Consent Order and subject to stipulated penalties and/or other remedies referenced under Sections 15 and 21 of this Consent Order for each violation and each day that US Ecology fails to complete the requirements appearing under Section 12.A of this Consent Order. Furthermore US Ecology shall still be obligated to comply with the requirements of Section 12 of this Consent Order.
- C. DEQ will review US Ecology's PTC revision application in accordance with IDAPA 58.01.01.200-299.
- D. In the event that DEQ requires additional information to issue a revised PTC, US Ecology shall submit the requested information to DEQ within 30 days of receiving a written request from DEQ.
- E. If US Ecology fails to comply with any of the requirements of Section 12.D of this Consent Order, then US Ecology shall be in violation of this Consent Order and subject to stipulated penalties and/or other remedies referenced under Sections 15 and 21 of this Consent Order for each violation and each day that US Ecology fails to submit the information requested pursuant to Section 12.D of this Consent Order.
- F. In the event that US Ecology withdraws the application referenced in Section 12.A.i of this Consent Order, then US Ecology shall be in violation of this Consent Order and subject to stipulated penalties and/or other remedies referenced under Sections 15 and 21 of this Consent Order for each violation and each day that US Ecology fails to resubmit a complete PTC revision application. Furthermore, US Ecology shall still be obligated to comply with the requirements of Section 12 of this Consent Order.
- G. In the event that DEQ denies US Ecology's application referenced in Section 12.A.i of this Consent Order, then US Ecology shall be in violation of this Consent Order and subject to stipulated penalties and/or other remedies referenced under Sections 15 and 21 of this Consent Order for each violation and each day that US Ecology fails to resubmit a complete PTC revision application. Furthermore, US Ecology shall still be obligated to comply with the requirements of Section 12 of this Consent Order.

- H. Within 60 days of receiving the revised PTC, prepared and issued pursuant to this Consent Order and IDAPA 58.01.01.200-299, US Ecology shall participate in a permit handoff with DEQ's Boise Regional Office staff. The permit handoff should be coordinated with the Regional Office representative referenced in Section 17 of this Consent Order.

13. **INSPECTION**

- A. Pursuant to Idaho Code § 39-108 and this Consent Order, DEQ may conduct inspections as necessary to verify compliance with all applicable Sections and requirements appearing in this Consent Order.

14. **PENALTIES**

- A. As a result of US Ecology's good faith efforts to resolve the aforementioned violations and to prevent future occurrences, DEQ has determined to allow a Eighty Percent (80%) reduction (i.e., \$5,600) in the penalties assessed in Section 5 of this Consent Order (i.e., \$7,000).
- B. Therefore, US Ecology shall pay to DEQ a civil penalty of One Thousand Four Hundred Dollars (\$1,400) for the alleged violations.
- C. Payment shall be made within 15 days of the effective date of this Consent Order.

15. **STIPULATED PENALTIES**

- A. In the event that US Ecology fails to comply with any of the requirements appearing in this Consent Order, US Ecology shall be in violation of this Consent Order and shall pay a Five Thousand Six Hundred Dollars (\$5,600) stipulated penalty. The \$5,600 stipulated penalty is representative of a forfeiture of good faith effort and is commensurate to the penalty reduction referenced under Section 14 of this Consent Order.
- B. The stipulated penalty payment shall be made within 15 days of receiving a written request from DEQ.
- C. Payment of the stipulated penalty under this Section shall not relieve US Ecology of any of its obligations under this Consent Order, and does not preclude DEQ from seeking any other relief available under law.

16. Penalty payments shall be made by check payable to the Department of Environmental Quality. Please send the penalty payment to the following address:

Accounts Receivable – Fiscal Office
Air Quality Penalty Payment
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255

17. All correspondence sent by US Ecology to DEQ regarding this Consent Order shall be addressed to:

Tom Krinke, Air Quality Compliance Officer
Department of Environmental Quality
1445 North Orchard
Boise, Idaho 83706

18. All correspondence sent by DEQ to US Ecology regarding this Consent Order shall be addressed to:

Terry Andrew Geis, General Manager
US Ecology Idaho, Inc.
P.O. Box 400
Grand View, Idaho 83624

19. This Consent Order shall not relieve US Ecology from its obligation to comply with any of the provisions of EPHA, the Rules, any provision of an air quality permit issued by DEQ to US Ecology, or other applicable local, state, or federal laws and regulations.
20. This Consent Order shall bind US Ecology, its successors and assigns until such time as the terms of the Consent Order are met and DEQ terminates the Consent Order in writing.
21. US Ecology expressly recognizes that failure to comply with the terms of this Consent Order may result in a district court action for specific performance of the Consent Order, civil penalties, assessment of costs, restraining orders, injunctions, and other relief available under law.
22. If any event occurs that causes, or may cause, delay in the achievement of any requirement of this Consent Order, US Ecology shall notify DEQ in writing within ten days of the date US Ecology knew, or should have known, of the delay.

Any notice under this paragraph shall describe in detail the anticipated length of the delay, all anticipated consequences of the delay, measures taken by US Ecology to prevent or minimize the delay, and a timetable by which those measures shall be implemented.

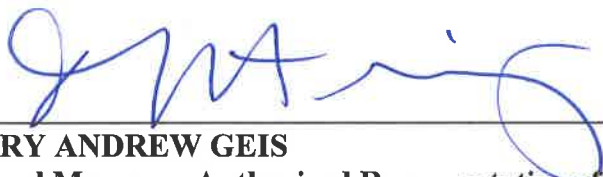
US Ecology shall utilize all reasonable measures to avoid or minimize any such delay. If DEQ determines that the delay or anticipated delay in achieving any requirements of this Consent Order has been or will be caused by circumstances beyond the reasonable control of US Ecology, DEQ may grant an extension for a period equal to the length of the delay.

The burden of proving that any delay is caused by circumstances beyond the reasonable control of US Ecology shall rest wholly with US Ecology.

23. A waiver by DEQ of any provision, term, condition, or requirement of this Consent Order shall not constitute a waiver of any other provision, term, condition, or requirement.
24. DEQ and US Ecology represent and warrant that each has the authority to enter into this Consent Order and to take all actions provided for herein, and no further action or authorization is required.
25. In case any provision or authority of this Consent Order or the application of this Consent Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Consent Order shall remain in force and shall not be affected thereby.

26. The effective date of this Consent Order shall be the date of the signature by the Director of the Department of Environmental Quality.

DATED THIS 11TH day of SEPTEMBER, 2014



TERRY ANDREW GEIS
General Manager, Authorized Representative of US Ecology Idaho, Inc.

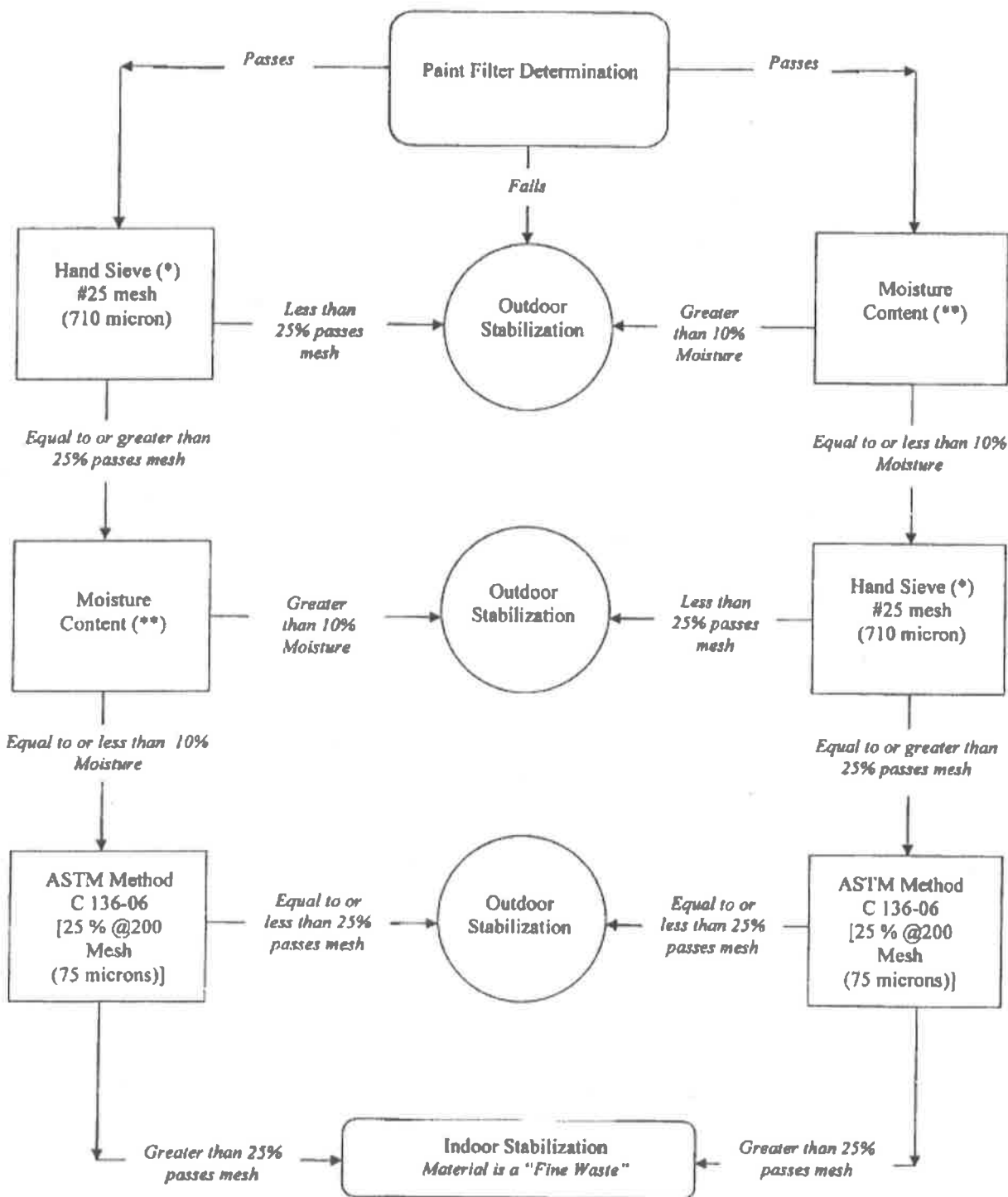
DATED THIS 24TH day of Sept., 2014



CURT A. FRANSEN
Director, Department of Environmental Quality

APPENDIX A

Determination of "Fine Wastes"



(*)Hand Sieve evaluation shall be performed as discussed in Paragraph 8.4 of ASTM Procedure C 136-06.

(**) Moisture content shall be determined by drying the sample to a constant mass without generating pressure sufficient to fracture the particles or temperature so great as to cause chemical breakdown of the sample (e.g. : ashing).