



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Ecology Division

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September 29, 2004

Mr. Eric Z. Lucas
Administrative Appeals Judge
Pollution Control Hearings Board
4224 - 6th Avenue SE
Rowe Six, Bldg. 2, MS: 40903
Lacey, WA 98504-0903

RE: *Department of Corrections v. Ecology*
PCHB No. 04-022

Dear Judge Lucas:

Enclosed please find the original stipulation and settlement of Ecology and the Department of Corrections that resolves this appeal. As the Board will note, this stipulation asks the Board to dismiss the appeal.

On behalf of counsel for both parties, I want to thank the Board for its courtesy in allowing us time to resolve this matter by agreement.

Sincerely,

JAY D. GECK
Assistant Attorney General
(360) 586-6769

JDG:sn

Enclosures

cc: Deborah L. Cade
Amy Jankowiak



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**POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON**

WASHINGTON STATE,
DEPARTMENT OF CORRECTIONS,

PCHB No. 04-022

Petitioner,

v.

WASHINGTON STATE,
DEPARTMENT OF ECOLOGY,

Respondent.

STIPULATION AND AGREEMENT TO SETTLE

PARTIES. The parties to this agreement are the Washington State Department of Ecology (Ecology) and the Washington State Department of Corrections (Corrections).

SCOPE OF AGREEMENT. This agreement arises because of the events that were the subject of Ecology civil penalty DE 03WQNR-5858. Corrections appealed this penalty to the PCHB, where it was assigned docket number PCHB No. 04-022. The parties enter this agreement that will end the administrative appeal and all further appeals or judicial review.

AGREEMENTS:

1. Corrections agrees that it will pay the penalty and perform the actions described in this agreement, and Ecology agrees that it will accept the following payment and performance in lieu of seeking full cash payment of the above penalty.

1 1.1 Corrections shall pay \$12,000 towards the penalty within 30 days of entering
2 this agreement.

3 1.2 Corrections shall enter into necessary contracts with AMEC so that AMEC shall
4 perform the attached Wastewater Treatment Compliance Audits and Training as described in
5 Attachment A to this Agreement. Such contract, and actual performance by AMEC for
6 Corrections, shall be completed pursuant to the schedule described, and the entire performance
7 by AMEC shall be completed within 6 months of this settlement agreement. Upon request,
8 Corrections shall provide to Ecology proof of its payment of the actual costs of this audit and
9 training. Any costs in addition to the proposed costs shall be the sole responsibility of
10 Corrections and shall not be a basis for altering this agreement.

11 Failure to accomplish performance of this audit and training proposal in a timely
12 fashion shall trigger reinstatement of the civil penalty according to the following terms, where
13 all dates are in reference to the date of this agreement:

- 14 • Completed in more than 6 but less than 7 months: \$6,000 penalty reinstated.
- 15 • Completed in more than 7 but less than 8 months: \$12,000 penalty reinstated.
- 16 • Completed in more than 8 but less than 10 months: \$24,000 penalty reinstated.
- 17 • Completed in more than 10 but less than 12 months: \$36,000 penalty reinstated.
- 18 • Not completed, or not completed in less than 12 months: remaining \$48,000 of the
19 original penalty reinstated.

20 Ecology may reinstate the penalty according to these terms by letter to Corrections
21 from the undersigned person from Ecology referencing this agreement. Such reinstatement of
22 any or all of the penalty shall trigger no right of administrative appeal or judicial review
23 whatsoever; *provided*, that if there is a dispute between Ecology and Corrections about whether
24 there has been adequate performance of the AMEC audit and training in Attachment 1, the
25 parties shall meet and mediate their dispute over that matter. If there is a failure of mediation,
26

1 then Ecology shall have the right to reinstate the penalty and Corrections shall have no
2 administrative remedies of review of that action under this agreement.

3 1.3 The AMEC audit and training shall include, at a minimum, the following
4 deliverables as described in Attachment A:

5 1.3.1 Upon review of records in Task 1, Attachment A, AMEC will prepare a
6 draft spreadsheet which summarizes the issues and questions identified in the review of
7 records. The spreadsheet will include items specific to each site as well as general
8 findings and observations that may be characteristic of most or all of the audited sites.
9 The spreadsheet will be used to prepare for the onsite audits and later modified to
10 reflect additional observations made during the onsite visits that can take DOC beyond
11 Best Management Practices to Exemplary Management Practices. AMEC is permitted
12 to submit a draft to DOC to seek DOC comments or additional information, but AMEC
13 shall retain independence in evaluating and responding to any DOC comments or
14 additional information. This first deliverable shall be provided as final document to
15 Ecology upon its completion by AMEC, without further review or editing by
16 Corrections.

17 1.3.2 After completion of Task 1, AMEC shall perform onsite plant audits
18 described as Task 2 and create a set of deliverables in draft and final. AMEC shall
19 provide draft audit spreadsheet used by AMEC to lead a 2-hour teleconference with
20 Corrections to discuss the spreadsheet with Corrections staff members and to review
21 proposed Exemplary Management Practices. AMEC shall provide an evaluation of
22 organizational needs to determine the level of training required for the supervisory
23 chain of command including the facility superintendent, plant manager(s) (WWTP
24 supervisor(s)) and the WWTP operator(s). AMEC shall provide a recommendation for
25 licensure and/or training for the facility managers and supervisors, and for
26 organizational support that will ensure continued strength in WWTP management.

1 Subsequently, the audit spreadsheet and training needs will be finalized to reflect the
2 consensus of the DOC/AMEC discussion. AMEC is permitted to submit a draft to DOC
3 to seek DOC comments or additional information, but AMEC shall retain independence
4 in evaluating and responding to any DOC comments or additional information. These
5 items shall also be provided to Ecology upon completion by AMEC, without further
6 review or editing by Corrections.

7 1.3.3 In Task 3, AMEC will prepare customized wastewater treatment
8 compliance and Exemplary Management Practices training to reflect the Washington
9 regulations, DOC facility permit conditions, and improvement opportunities identified
10 during the onsite audits. AMEC will submit to DOC a draft version of the training
11 digitally and incorporate DOC comments. These draft and final items shall also be
12 provided to Ecology upon delivery by AMEC, without review or editing by
13 Corrections.

14 1.4 The AMEC all assessments and recommendations in Task 1, 2, and 3 shall be
15 provided to the head of Corrections with the intention that this ensure effective internal
16 consideration and responses to the assessment. Copies of all such assessments and
17 recommendations provided to Ecology shall be sent to:

18 Enforcement Coordinator
19 Water Quality Program
20 Department of Ecology, Northwest Regional Office
21 3190 – 160th Avenue SE
22 Bellevue, WA 98008-5452

23 Any drafts submitted by AMEC to DOC under this settlement, and any
24 communications from DOC concerning the AMEC drafts under this settlement, shall be
25 provided to Ecology at the time of such communications.

26 1.5 Corrections shall implement the recommendations of the assessment in a timely
and prompt manner consistent and appropriate for the recommendations of the AMEC
assessment, to the extent the recommendations are consistent with applicable law and authority

1 of Corrections. This implementation is subject to legislative appropriation, and Corrections
2 agrees to request the necessary appropriation.

3 2. If Corrections fails to make the a payment required by this agreement, Ecology
4 may, after notice and opportunity to cure by Corrections, file a lawsuit in the superior court of
5 Thurston County to collect such moneys as it would collect moneys for a penalty due and
6 owing under RCW 43.21B.300(4) and to otherwise enforce this agreement. No such lawsuit
7 shall provide any right or opportunity to litigate issues that have been resolved by entering into
8 this settlement agreement.

9 3. **Date of Agreement.** The date of this agreement shall be the date when both
10 parties have signed the agreement. The agreement is hereby entered and stipulated as shown
11 by the authorized signatures of the parties and their counsel.

12 DEPARTMENT OF ECOLOGY:

13 By: [Signature]
14 Title: COQ Program Manager
15 Date: 9/22/04
16

17 DEPARTMENT OF CORRECTIONS:

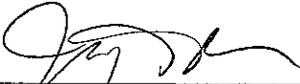
18 By: [Signature]
19 Title: Deputy Secretary
20 Date: 9/2/04
21

22 4. **Stipulation to Dismissal of Appeal.** Based on this stipulation and agreement,
23 the parties request that the Board dismiss the above captioned appeal.

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DATED this 29th day of September, 2004.



JAY D. GECK, WSBA #17916
Senior Counsel, Office of the Attorney General
Attorney for Department of Ecology



DEBORAH CADE, WSBA # 18329
Senior Counsel, Office of the Attorney General
Attorney for Department of Corrections



May 7, 2004

Washington Department of Corrections
417 W 4th Ave
P.O. Box 41112
Capital Planning and Development
Olympia, WA 98504-1112
Attn: Pam Jenkins, P.E.

**Subject: Washington Department of Corrections
Wastewater Treatment Compliance Audits and Training**

Dear Ms. Jenkins:

AMEC appreciates the opportunity to submit this proposal to the Washington Department of Corrections (DOC) for independent environmental compliance audit services and training at seven correctional facilities located in Western Washington. We understand that DOC wants to not just meet but exceed regulatory requirements by implementing Exemplary Management Practices for the wastewater treatment operations at these facilities. Wastewater treatment plant audits are highly effective in providing an objective perspective for improvements in operations, recordkeeping, and overall compliance. We are proposing a combination of audits coupled with subsequent customized training to capture and deliver both Exemplary Management Practices (EMP) and lessons learned during the audits. Included in the training component is an evaluation of organizational needs to determine the level of training required for the supervisory chain of command including the facility superintendent, plant manager (WWTP supervisor) and the WWTP operator. Based on AMEC's previous experience, this combination of services that exceeds Best Management Practices results in more efficient, compliant operations; more satisfied, informed employees; and greater environmental stewardship as compared with pre-audit performance.

In response to your request for a scope and cost estimate, we are including in this proposal:

- Scope of Services
- AMEC Project Team
- Project Schedule
- Estimated Cost

AMEC Earth & Environmental
5007 Pacific Highway East, Suite 5
Tacoma, WA
USA 98424
Tel (253) 896-0132
Fax (253) 896-0771

www.amec.com



Scope of Services

AMEC's scope of work includes performing the following tasks, which are described below:

1. Review of Records
2. Onsite Compliance Audits/ Identification of Exemplary Management Practices and Recommendations.
3. Training of WWTP Operators, Supervisors, and Other Staff as needed

Task 1 – Review of Records

AMEC will customize the records compliance checklist based on Washington-specific regulatory requirements. The checklist will include both 1) administrative or recordkeeping items as well as 2) operational items which may be observed onsite only. Using the checklist, AMEC will review the wastewater pretreatment or treatment permits, wastewater permit applications, analytical laboratory records, site drawings, and compliance records for the following Washington DOC facilities:

- Monroe CC
- Clallam Bay CC
- Olympic CC
- Washington CC
- Larch CC
- Cedar Creek CC
- McNeil Island CC

We assume a total of 8 hours per plant for the on-site records review in addition to a "global" review for general issues and compilation of observations made during the review. We will review records from June 2001 through present for each facility.

AMEC will prepare a draft spreadsheet which summarizes the issues and questions identified in the review of records. The spreadsheet will include items specific to each site as well as general findings and observations that may be characteristic of most or all of the audited sites. The spreadsheet will be used to prepare for the onsite audits and later modified to reflect additional observations made during the onsite visits that can take DOC beyond Best Management Practices to Exemplary Management Practices.

We further assume that DOC will make available onsite the hardcopy records. We understand that six of the seven DOC wastewater treatment facilities are operating with a NPDES permit to discharge to surface water and that MCC has a pretreatment lagoon and discharges to a municipal treatment plant.

Task 2 – Wastewater Treatment Plant Audits/ Exemplary Management Practices

Following the Task 1 review of records, AMEC will perform onsite wastewater treatment plant audits at the seven named DOC facilities, based on the wastewater treatment compliance checklist. The focus of the operational audit will be to observe current practices and identify methods to bring DOC to Exemplary Management Practices at these facilities. We will use observations, communication with DOC operations personnel, and related information learned in the records review to complete the checklist. Photographs of the wastewater treatment facilities only will be recorded digitally. A senior AMEC environmental engineer, experienced in wastewater plant operations and compliance issues, will perform the onsite audit for each site.

We assume that each site's audit will require 8 hours. We further assume that DOC personnel will be available to escort our senior environmental engineer and answer technical questions arising from the records review or onsite audits. We also understand that DOC will cooperate with scheduling the audits in a manner to minimize travel costs. For budgeting purposes, we assume that the total of seven onsite visits may be made in two business weeks.



Following the onsite audits, AMEC will record onsite observations in the draft audit spreadsheet. AMEC will lead a 2-hour teleconference to discuss the spreadsheet with DOC staff members and review proposed EMP's. AMEC will provide an evaluation of organizational needs to determine the level of training required for the supervisory chain of command including the facility superintendent, plant manager (WWTP supervisor) and the WWTP operator. AMEC will provide to the DOC a recommendation for licensure and/or training for the facility managers and supervisors, and for organizational support that will ensure continued strength in WWTP management. Subsequently, the audit spreadsheet and training needs will be finalized to reflect the consensus of the DOC/AMEC discussion.

Task 3 – Training

AMEC will prepare customized wastewater treatment compliance and Exemplary Management Practices training to reflect the Washington regulations, DOC facility permit conditions, and improvement opportunities identified during the onsite audits. We will submit to DOC a draft version of the training digitally and incorporate DOC comments. Our senior environmental engineer, who led the records review and performed the onsite audits, will present the final training for operators and managers in two 4 to 6 hour sessions, scheduled at DOC's convenience on two consecutive days. We suggest that the training be conducted shortly after completion of the final spreadsheet of audit findings, observations, and identification of Exemplary Management Practices.

AMEC Staff

AMEC has assembled a team of experienced professionals to meet the unique needs of Washington's DOC. The principal staff participating in the project includes the following team members:

Marlea A. Haugen, P.E. – Project Manager

Sandra Dudley, Ph.D., P.E. – Technical and Audit Leader, Sr. Chemical/Environmental Engineer

We will also call on our extensive network of environmental professionals as necessary to provide a quality product to the DOC

Proposed Schedule

AMEC proposes to initiate the work immediately upon written notice to proceed and receipt of the wastewater documents listed in Task 1. We anticipate for Task 1 one week for development and finalization of the compliance checklist, two weeks for the records review, one week for review of the audit spreadsheet and preparation for the onsite audits. For Task 2, we estimate two business weeks for the onsite audits and one week for finalization of the spreadsheet, training recommendations, and EMP's. Following the DOC/AMEC meeting to discuss the audit spreadsheet, AMEC expects to develop, finalize, and deliver the training within three weeks. The schedule is illustrated in Table 1, assuming that each task immediately follows its predecessor.

Table 1. Schedule

| Task | Budget | Week | | | | | | | | | |
|---------------------------------------|----------|------|---|---|---|---|---|---|---|---|----|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 1. Review of Records | \$13,300 | | | | | | | | | | |
| 2. Wastewater Treatment Plant Audits/ | \$20,700 | | | | | | | | | | |



| | | | | | | | | | | | | | |
|--------------------------------|----------|--|--|--|--|--|--|--|--|--|--|--|--|
| Exemplary Management Practices | | | | | | | | | | | | | |
| 3 Training | \$14,000 | | | | | | | | | | | | |



Estimated Cost and Contract Terms

AMEC proposes to provide the above reference services for a lump sum cost of **\$ 48,000**.

Thank you for this opportunity to propose on work to assist the Washington Department of Correction. Please don't hesitate to contact Marlea Haugen at (253) 896-0132 if you have questions or require additional information.

Sincerely,

AMEC Earth and Environmental

AMEC Earth and Environmental

Marlea A. Haugen, P.E.
Senior Engineer
Project Manager

Skip Allred
Environmental Unit Manager