



Department of Energy

Washington, DC 20585

November 4, 2016

Mr. Mark Lindholm
President and Project Manager
Washington River Protection Solutions
2425 Stevens Center Place
Richland, Washington 99352

WCO-2016-02

Dear Mr. Lindholm:

The Office of Enterprise Assessments' Office of Enforcement has completed its review of the facts and circumstances associated with a January 21, 2016, event during which a subcontractor employee partially fell into an abandoned septic tank at the 200 East Area on the Hanford site. Washington River Protection Solutions (WRPS) reported this event into the Department of Energy's (DOE) Noncompliance Tracking System under report NTS-ORP--WRPS-TANKFARM-2016-0003, dated March 8, 2016.

The incident occurred while the worker was hand digging to locate the top of the tank, and his fall was arrested when he caught the sides of the overburden with his arms and respiratory protection gear. The worker was promptly rescued by several co-workers. Although the worker was not injured by the fall and a co-worker sustained only a minor injury during the rescue, the potential consequences to the employee's health from this event are deemed serious. The event was preventable and revealed deficiencies in WRPS's processes for hazard identification and assessment, hazard prevention and abatement, training and communication of hazards, and planning and execution of emergency response and rescue activities.

In accordance with 10 C.F.R. § 851.41, *Settlement*, the Office of Enforcement has elected to resolve any potential noncompliances with requirements enforceable under 10 C.F.R. Part 851, *Worker Safety and Health Program*, through execution of a Consent Order. In deciding to enter into this Consent Order, DOE placed considerable weight on WRPS's investigation of the event and credible corrective actions to improve hazard identification and control during the work planning process.

DOE reserves the right to re-open this investigation if DOE later becomes aware that WRPS provided any false or materially inaccurate information. Further, if there is a recurrence of worker safety and health deficiencies similar to those identified in this Consent Order, or a failure to comply with the terms and conditions prescribed in the Consent Order (or other related actions that WRPS



subsequently determines to be necessary) to prevent recurrence of the identified issues, then the Office of Enforcement may pursue additional enforcement activity. The Office of Enforcement, Environmental Management, and the Office of River Protection will continue to closely monitor WRPS's implementation of worker safety and health requirements until the issues associated with this Consent Order are fully resolved.

Enclosed please find two signed copies of the Consent Order. Please sign both, keep one for your records, and return the other copy to the Office of Enforcement within 1 week from the date of receipt. Please follow all instructions specified in the enclosure. By signing this Consent Order, you agree to comply with all of the terms, including payment of the monetary remedy, specified in section IV of the Consent Order and in the manner prescribed therein.

If you have any questions concerning this Consent Order, please contact me at 301-903-7707, or your staff may contact Dr. Anthony Pierpoint, Director, Office of Worker Safety and Health Enforcement, at 301-903-0100.

Sincerely,

A handwritten signature in black ink that reads "Steven C. Simonson". The signature is written in a cursive style with a large initial 'S'.

Steven C. Simonson
Director
Office of Enforcement
Office of Enterprise Assessments

Enclosure: Consent Order (WCO-2016-02)

cc: Kevin Smith, ORP
Charles Thom, WRPS

In the matter of) Report No. NTS-ORP--WRPS-TANKFARM-2016-0003
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) Consent Order WCO-2016-02

**CONSENT ORDER INCORPORATING AGREEMENT BETWEEN THE
 U.S. DEPARTMENT OF ENERGY AND
 WASHINGTON RIVER PROTECTION SOLUTIONS**

I

Washington River Protection Solutions (WRPS) is responsible for the management and operation for the Department of Energy’s (DOE) Hanford tank operations. WRPS is the prime contractor under Contract No. DE-AC27-08RV14800 (Contract) entered into with the DOE Office of River Protection (DOE-ORP).

II

On January 21, 2016, three American Electric Incorporated (AEI) construction laborers were digging by hand to locate the out-of-service septic tank 2607-ED (tank) in the 241-AX Farm in the 200 East Area in preparation for removal per work order WO-167236. Ground scan information indicated that the tank’s top was approximately three feet below grade. Each of the laborers was wearing Tyvek protective clothing and a backpack-mounted self-contained breathing apparatus (SCBA) equipped with a one-hour air bottle.

While digging to locate the top of the tank, a laborer fell part way into the tank when the overburden and top of the tank collapsed (fall event). Upon hearing a yell for help, several co-workers moved to help get the laborer out of the hole, during which, one of the co-workers suffered a back injury. After the rescue, the laborer who suffered the fall event was surveyed for radiological contamination; none was found.

After the fall event, calls were made from the work site to several AEI personnel, informing them of the incident. After these calls and approximately 10 minutes after the fall event, AEI personnel notified emergency services. Several minutes later, AEI safety personnel arrived on site and directed the laborer who suffered the fall event to remove the contaminated clothing and use the emergency safety shower. The Hanford Fire Department personnel arrived on location approximately 14 minutes after notification. Approximately 40 minutes after the fall event, the laborer and rescuers were transported to HPM Corporation Occupational Medical Services.

WRPS held a fact finding meeting on January 25, 2016, and submitted occurrence report EM-RP--WRPS-TANKFARM-2016-0003, *Laborer Partially Falls into Out-of-Service Septic Tank While Potholing for Septic Tank Access Lid*, on January 26, 2016. WRPS finalized its event investigation report EIR-2016-005, Rev 1, on March 2, 2016, and completed its apparent cause analysis, WRPS-PER-2016-0148, on March 6, 2016.

In addition, WRPS voluntarily submitted into DOE's Noncompliance Tracking System (NTS) report number NTS-ORP--WRPS-TANKFARM-2016-0003 on March 8, 2016.

The Office of Enforcement gathered initial data through reviews of event and procedure documentation and discussions with WRPS and AEI personnel. The Office of Enforcement initiated these reviews and discussions due to its questions pertaining to the tank's material of construction, dimensions, content, and state of deterioration; concerns over the work planning and control processes that permitted hand digging down towards the top of the tank; potential hazards to the laborer if the fall had not been arrested by chance; potential hazards to both the laborer and rescuers if additional ground collapse occurred during the impromptu rescue; and apparent delays in contacting the Hanford Fire Department, the emergency response organization, following the fall event.

Through its review of the data collected, the Office of Enforcement identified several potential noncompliances with DOE worker safety and health requirements. The potential noncompliances raised concerns about the adequacy of WRPS processes for: (1) hazard identification and assessment during planning for this work activity, (2) hazard prevention and abatement actions to protect workers from dangerous safety and health conditions, (3) training of personnel involved in the work activity and communication of potentially hazardous conditions to subcontractors, and (4) planning and execution of emergency response and rescue activities. In its July 7, 2016, letter to the Office of Enforcement, WRPS requested to enter into the settlement process based on its positive track record of noncompliance reporting and keeping DOE-ORP informed of potential and actual NTS-reportable events, the thoroughness of its causal analysis, and the comprehensiveness of its corrective actions in response to this event.

III

Pursuant to 10 C.F.R. § 851.41, at any time during enforcement proceedings, DOE may resolve any or all outstanding issues with a Consent Order if the settlement is consistent with the objectives of the Atomic Energy Act of 1954, as amended, and worker safety and health requirements enforceable under 10 C.F.R. Part 851, *Worker Safety and Health Program*.

To resolve potential noncompliances of worker safety and health requirements and in consideration of WRPS's investigation, causal analyses, and associated corrective actions taken since the submission of the NTS report identified above, DOE has elected to enter into settlement. DOE and WRPS have reached agreement to resolve this matter through execution of this Consent Order.

IV

Accordingly, the terms of this Consent Order are as follows:

In consideration of the mutual agreements set forth in this section, the sufficiency and adequacy of which are acknowledged by DOE and WRPS (hereinafter the "Parties"), the following terms represent agreement by the authorized representatives of the Parties to resolve by settlement the potential noncompliances at WRPS, in lieu of an enforcement action that DOE may issue pursuant to 10 C.F.R. § 851.42.

1. WRPS shall complete the following actions by June 30, 2017:
 - a. Implement the corrective actions stated in NTS report number NTS-ORP--WRPS-TANKFARM-2016-0003, *Laborer Partially Falls into Out-of-Service Septic Tank While Potholing for Septic Tank Access Lid*, which are summarized below:
 - (1) Perform an extent-of-condition review to establish a list of all inactive septic tanks and documented sinkholes under WRPS control/Contract.
 - (2) Perform a field inspection/surveillance of all inactive septic tanks under WRPS control/Contract to ensure that such areas are adequately identified and posted.
 - (3) Perform a walk down of all historical sinkhole-related Problem Evaluation Requests that have not been adequately dispositioned and ensure that proper boundary/access controls are in place.
 - (4) Develop a rigorous analysis process as part of work planning and control to evaluate whether faulty assumptions would subject workers to inadequately-controlled hazards that require additional risk mitigation.
 - (5) Develop and provide training on the analysis process described above in action 1(a)(4) to Planners and Field Work Supervisors.
 - b. Incorporate the revised work planning and control process requirements, described above in action 1(a)(4), into the qualification process for all Planners and Field Work Supervisors.
 - c. Conduct a targeted assessment to determine whether the WRPS work planning and control process adequately addresses the emergency response and rescue capabilities that may be needed for activity-specific work. If issues are identified, develop and implement corrective actions to address them, including updating the qualification requirements for all Planners, Field Work Supervisors, and other workers as necessary.
 - d. Conduct an assessment of the existing subcontractor selection processes to evaluate their efficacy in determining whether the subcontractor is:

- Experienced and qualified to protect worker safety and health while performing the assigned scope of work.
- Involved with the hazard identification and control component of the WRPS work planning and control processes.

If issues are identified from this assessment, develop and implement corrective actions to address them.

e. Perform an effectiveness review of:

- Action items 1(a)(4) and 1(a)(5) above.
- Corrective actions taken in response to the assessments conducted under action items 1(c) and 1(d).

The effectiveness review shall be performed against criteria that are reviewed and approved by DOE-ORP to ensure that the actions remain in place, are sustainable, are effective, and do not introduce any unintended consequences. Provide documentation of the results of the effectiveness review to the Office of Enforcement and DOE-ORP within 30 days of completing the review.

f. If any action item in this section of the Consent Order requires an extension of the due date, notify the Office of Enforcement and DOE-ORP in writing at least 30 calendar days before the due date.

2. WRPS shall pay the amount of \$45,000 reflecting an agreed upon monetary remedy in lieu of the issuance of an enforcement action with the proposed imposition of a civil penalty pursuant to 10 C.F.R. § 851.42.
3. WRPS agrees to return a signed copy of this Consent Order, within one week from the date of receipt, to the address provided in item 5 below.
4. The Effective Date of this Consent Order shall be the date upon which WRPS signs this Consent Order.
5. WRPS shall remit the monetary remedy of \$45,000 by check, draft, or money order payable to the Treasurer of the United States (Account Number 891099) within 30 calendar days after the Effective Date of this Consent Order. Payment shall be sent by overnight carrier to:

Director, Office of Enforcement
 Attention: Office of the Docketing Clerk, EA-10
 U.S. Department of Energy
 19901 Germantown Road
 Germantown, MD 20874-1290

6. This Consent Order shall constitute a full and final settlement of the potential noncompliances identified in the referenced NTS report, subject to the following:

- (a) WRPS's payment of the monetary remedy in accordance with item 5 above; and
 (b) WRPS's completion of all actions set forth in item 1 above to the satisfaction of DOE.
7. Neither the monetary remedy nor any costs, as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47, incurred by, for, or on behalf of WRPS relating to coordination and cooperation with DOE concerning the investigation of matters covered by this Consent Order, shall be considered allowable costs under the Contract. However, costs incurred by, for, or on behalf of WRPS relating to the development and implementation of corrective actions, including costs associated with the effectiveness review required under item 1 above, may be considered allowable costs under the Contract.
 8. This Consent Order does not preclude DOE from initiating an investigation or issuing an enforcement action under 10 C.F.R. § 851.42 with respect to a potential noncompliance if: (a) after the Effective Date (as defined in item 4 above), DOE becomes aware of any false or materially inaccurate facts or information provided by WRPS; (b) there is a recurrence of worker safety and health deficiencies similar to those identified above; or (c) WRPS fails to complete all actions identified in item 1 above in a timely and effective manner to prevent recurrence.
 9. Any modification to this Consent Order requires the written consent of both Parties.
 10. WRPS waives any and all rights to appeal or otherwise seek judicial or administrative review of the terms of this Consent Order. DOE retains the right to judicially enforce the provisions of this Consent Order by all available legal means.
 11. This Consent Order is issued pursuant to DOE's authority under Section 234C of the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2282c), and the implementing provisions of 10 C.F.R. Part 851 governing enforcement of worker safety and health requirements at DOE sites.
 12. This Consent Order shall become a Final Order after the signed copy, referenced in item 3 above, is filed by the Office of Enforcement's Office of the Docketing Clerk.

On behalf of my respective organization, I hereby agree to and accept the terms of the foregoing Consent Order.

FOR U.S. Department of Energy

FOR Washington River Protection Solutions

 Date 11/4/16

Steven C. Simonson
 Director
 Office of Enforcement
 Office of Enterprise Assessments

 Date 11/7/16

Mr. Mark Lindholm
 President and Project Manager
 Washington River Protection Solutions