



**INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

**Eric J. Holcomb**  
*Governor*

**Brian C. Rockensuess**  
*Commissioner*

STATE OF INDIANA                    ) SS:     BEFORE THE INDIANA DEPARTMENT OF  
  )  
COUNTY OF MARION                )           ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT        )  
OF ENVIRONMENTAL MANAGEMENT,         )  
  )  
  Complainant,         )  
  )  
  v.                                 )  
  )  
EAGLE WASHINGTON HOLDING                 )  
COMPANY, LLC,                                    )  
  )  
  Respondent.         )

Case No. 2021-28040-A

**AGREED ORDER**

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code (“IC”) 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent’s entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

**I. FINDINGS OF FACT**

1. Complainant is the Commissioner (“Complainant”) of the Indiana Department of Environmental Management (“IDEM”), a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is Eagle Washington Holding Company, LLC (“Respondent”), which owns and operates the stationary railroad car cleaning and refurbishing operation with Plant ID No. 027-00006, located at 1723 West Walnut Street, in Washington, Daviess County, Indiana (“Site”).
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation (“NOV”) via Certified and Electronic Mail to:



Marc Walraven, President  
Eagle Washington Holding Co., LLC  
1723 West Walnut Street  
Washington, IN 47501  
marcw@eaglesm.com

Dalton Demny, Registered Agent  
1723 West Walnut Street  
Washington, IN 47501

5. During an investigation including inspections on July 15 and August 18, 2021 conducted by a representative of IDEM, the following violations were found:

Based on the Enforcement Action Letter issued to Respondent on July 27, 2021, IDEM alleges the following violations:

- a. Pursuant to Federally Enforceable State Operating Permit ("FESOP") No. 027-37140-00006 ("Permit") condition D.1.8, Respondent shall perform Volatile Organic Compound ("VOC") testing of the flare (FL-1) used to control emissions from Flare Stations (FS-1 through FS-8) and the Steam Stations (WS-7 through WS-18) not later than ninety (90) days after issuance of the Permit.

Respondent failed to perform VOC testing of the flare (FL-1) used to control emissions from Flare Stations (FS-1 through FS-8) and the Steam Stations (WS-7 through WS-18) not later than ninety (90) days after issuance of the Permit, in violation of Permit condition D.1.8.

- b. Pursuant to Permit conditions D.2.10 and D.2.13, Respondent shall perform visible emission notations of each of the abrasive blasting units (AB-1 through AB-4) dust collector stack exhausts (DC-1, DC-2, and DC-3) once per day during normal daylight operations and shall maintain daily records of the visible emission notations of each abrasive blasting unit's dust collector stack exhausts.

From August 1, 2019 through May 28, 2021, Respondent failed to perform visible emission notations of each of the abrasive blasting units (AB-1 through AB-4) dust collector stack exhausts (DC-1, DC-2, and DC-3) once per day during normal daylight operations and Respondent failed to maintain daily records of the visible emission notations of each abrasive blasting unit's dust collector stack exhausts, in violation of Permit conditions D.2.10 and D.2.13.

- c. Pursuant to Permit conditions D.2.11 and D.2.13, Respondent shall perform daily inspections to verify the placement, integrity, and particle loading of the filters associated with Paint Booths (P-1 and P-2) and the Rail Car Liner Installation Operations (RCLI) and shall maintain a log of the daily inspections.

From September 2, 2019 through February 24, 2021, Respondent failed to perform daily inspections to verify the placement, integrity, and particle loading of the filters associated with Paint Booths (P-1 and P-2) and the Rail

Car Liner Installation Operations (RCLI) and failed to maintain a log of the daily inspections, in violation of Permit conditions D.2.11 and D.2.13.

Based on the Enforcement Action Letter issued to Respondent on September 1, 2021, IDEM alleges the following violation:

- d. Pursuant to Permit conditions D.1.10 and D.1.11, Respondent shall continuously monitor the presence of the flare pilot flame using a thermocouple or any other equivalent device to detect the presence of a flame and shall maintain monthly records to demonstrate the thermocouple or equivalent device detects the presence of a flame no less than once per minute.

Respondent failed to continuously monitor the presence of the flare pilot flame using a thermocouple or any other equivalent device to detect the presence of a flame and failed to maintain monthly records to demonstrate the thermocouple or equivalent device detects the presence of a flame no less than once per minute, in violation of Permit conditions D.1.10 and D.1.11.

6. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

## **II. ORDER**

1. This Agreed Order shall be effective (“Effective Date”) when it is approved by Complainant or Complainant’s delegate and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with FESOP 027-37140-00006 unless superseded by a permit modification or renewal.
3. Within ninety (90) days of the Effective Date, Respondent shall comply with Permit condition D.1.8. Specifically, Respondent shall conduct VOC compliance testing of the flare (FL-1) used to control emissions from Flare Stations (FS-1 through FS-8) and the Steam Stations (WS-7 through WS-18).
4. Within ninety (90) days of the Effective Date, Respondent shall comply with Permit conditions D.1.10 and D.1.11. Specifically, Respondent shall provide IDEM a compliance plan that demonstrates how the Respondent will continuously monitor and maintain records of the presence of the flare pilot flame.
5. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Andrew Taylor, Enforcement Case Manager  
Office of Air Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
aktaylor@idem.IN.gov

6. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Eight Thousand Seven Hundred Fifty Dollars (\$8,750.00). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the thirtieth day being the "Due Date."
7. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess and Respondent shall pay stipulated penalties in the following amounts:

<u>Paragraph</u>	<u>Violation</u>	<u>Stipulated Penalty</u>
3	Failure to complete compliance testing	\$1,000 per week
4	Failure to provide IDEM a compliance plan that demonstrates how Respondent will continuously monitor and maintain records of the presence of the flare pilot flame	\$500 per week

8. Stipulated penalties shall be due and payable no later than the thirtieth day after Respondent receives written notice that Complainant has determined a stipulated penalty is due; the thirtieth day being the "Due Date." Complainant may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive Complainant's right to collect such stipulated penalty or preclude Complainant from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondent for a violation of this Agreed Order; such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
9. Civil and stipulated penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management  
Accounts Receivable  
IGCN, Room 1340  
100 North Senate Avenue  
Indianapolis, IN 46204

10. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 9, above.
11. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
12. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
13. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.
14. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
15. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
16. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
17. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.

18. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the violations specified in the NOV.
19. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency ("U.S. EPA") or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the U.S. EPA or any other agency or entity.
20. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order and IDEM has issued a Resolution of Case letter to Respondent.

**REMAINDER OF PAGE LEFT BLANK INTENTIONALLY**

TECHNICAL RECOMMENDATION:  
Department of Environmental  
Management

By: David P. McIver  
David P. McIver  
Section Chief  
Enforcement Section  
Office of Air Quality

Date: June 7, 2024

RESPONDENT:  
Eagle Washington Holding Company, LLC

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

COUNSEL FOR RESPONDENT:

By: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_\_\_.

For the Commissioner:

\_\_\_\_\_  
Matthew Stuckey  
Assistant Commissioner  
Office of Air Quality  
Indiana Department of Environmental  
Management