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In the Matter of	:	STIPULATION AND CONSENT ORDER
EnergySolutions, LLC	:	No. 1708016
UTD982598898	:	

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This STIPULATION AND CONSENT ORDER is issued by the Director of the Division of Waste Management and Radiation Control pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code §19-6-101, et seq. The Director has authority to issue such ORDERS in accordance with Utah Code §19-6-112.

JURISDICTION

1. The Director has jurisdiction over the subject matter of this STIPULATION AND CONSENT ORDER pursuant to Utah Code §19-6-112 and jurisdiction over the Mixed Waste Facility owned and operated by EnergySolutions, LLC. EnergySolutions, LLC and the Director are the parties to this agreement.
2. The Waste Management and Radiation Control Board has authority to review this STIPULATION AND CONSENT ORDER pursuant to Utah Code Ann. §19-6-104 (1)(f), and jurisdiction over EnergySolutions, LLC.

FINDINGS

3. EnergySolutions, LLC is a Utah Limited Liability Company authorized to conduct business in the State of Utah (EnergySolutions).
4. EnergySolutions is a “person” as defined in UCA 19-1-103(4) and is subject to all applicable provisions of the Utah Solid and Hazardous Waste Act, the Utah Administrative Code and its Permit (as defined below).
5. EnergySolutions operates a commercial mixed waste treatment, storage and disposal facility in Tooele County, Utah. Hazardous wastes that EnergySolutions is authorized to treat, store and dispose are identified in the facility’s Part B Permit originally issued on November 30, 1990 (the Permit), on file with the Utah Department of Environmental Quality, Division of Waste Management and Radiation Control (the Division). The permit was reissued effective April 4, 2003 and remains in full force and effect.
6. EnergySolutions generates listed and characteristic hazardous waste as defined by R315-261 of the Utah Administrative Code.

7. The Director issued **NOTICE OF VIOLATION** No. 1706012 (NOV) to *EnergySolutions* on July 17, 2017 alleging violations by *EnergySolutions* of the Permit based on findings self-identified and self-reported by *EnergySolutions*. The findings and conclusions of the NOV are incorporated herein by this reference.
8. *EnergySolutions* submitted a written response to the NOV on July 21, 2017.

STIPULATION AND CONSENT ORDER

9. The parties now wish to fully resolve the NOV identified without further administrative or judicial proceedings.
10. In full settlement of the violations alleged in NOV No. 1706012 identified above, *EnergySolutions* shall pay the sum of **\$50,689** to the Utah Department of Environmental Quality, c/o Scott T. Anderson, Director, Division of Waste Management and Radiation Control, P. O. Box 144880, Salt Lake City, Utah, 84114-4880. This amount has been determined in accordance with the Waste Management and Radiation Control Board's Civil Penalty Policy (R315-102 of Utah Administrative Code), which considers such factors as the gravity of the violation(s), the extent of deviation from the rules, the potential for harm to human health and the environment, economic benefit, good faith efforts to comply and other factors. Full payment shall be made within 30 days of the effective date of this STIPULATION AND CONSENT ORDER.

EFFECT OF STIPULATION AND CONSENT ORDER

11. For purposes of this STIPULATION AND CONSENT ORDER, the parties agree and stipulate to the findings and conclusions set forth in the NOV and the above referenced facts. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this STIPULATION AND CONSENT ORDER for purposes other than determining the basis of this STIPULATION AND CONSENT ORDER. Nothing contained herein shall be deemed to constitute a waiver by the State of its right to initiate enforcement action, including civil penalties, against *EnergySolutions* in the event of future non-compliance with this STIPULATION AND CONSENT ORDER, with the Act, with the Utah Administrative Code or with the Permit, nor shall the State be precluded in any way from taking appropriate action should such a situation arise at *EnergySolutions*' facility. However, entry into this STIPULATION AND CONSENT ORDER shall relieve *EnergySolutions* of all liability for violations alleged in NOV No. 1706012.

EFFECTIVE DATE

This STIPULATION AND CONSENT ORDER shall become effective upon execution by *EnergySolutions* and the Director.

Dated this ____ day of _____, 2017

EnergySolutions, LLC

Division of Waste Management and Radiation Control

Daniel B. Shrum, Senior Vice President

Scott T. Anderson, Director

PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER

Company Name: [EnergySolutions LLC](#)
 EPA ID#: [UTD982598898](#)

NOV #: [1706012](#)
 NOV date: [July 17, 2017](#)

prepared by: [UDWMRC](#)
 date prepared: [August 14, 2017](#)

	violation number (from NOV)	1
	violation description	Polymer application
1	Gravity based penalty from matrix	\$4,940
	(a) Potential for harm	MODERATE
	(b) Extent of deviation	MAJOR
2	Numbers of occurrences	\$11
3	Multiply line 1 by line 2 minus 1	\$49,400
4	Add line 1 to line 3	\$54,340
5	Percent decrease for good faith	-15%
6	Multiply line 4 by line 5	-\$8,151
7	Calculate economic benefit	\$4,500
8	Total lines 4,6 and 7	\$50,689

Total \$50,689

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 1706012

Violation Number 1

Violation description Polymer

1. Gravity Based Penalty

- (a) Potential for Harm - **Moderate:** EnergySolutions' Clive facility is located in an area known for wind. Wind dispersal of radioactive dust outside of the controlled area must be minimized. Failure to place appropriate dust suppression may have allowed contamination to spread. Mitigating factors include temporary cover on much of the Mixed Waste Landfill Cell and the receipt of debris rather than a majority of bulk wastes.
- (b) Extent of Deviation – **Major** – For a period extending over two years, the Permittee neglected to apply the polymer based dust suppression to the Mixed Waste Landfill Cell as required.

\$4,940.00 (mid-range)

- (c) Multiple – 11 individual occurrences where application of dust suppression polymer was not applied as required.

\$4,940.00 X 10 = \$49,400.00

2. Adjustment Factors (if applicable)

- (a) Good faith- 15% reduction in penalty for self-reporting violation.

(\$4,940.00 + \$49,400.00) X (0.85) = \$46,189.00

- (b) Willfulness/Negligence-
- (c) History of Compliance or Noncompliance-
- (d) Ability to pay-
- (e) Other Unique Factors-

- 3. Economic Benefit- Facility documents indicate that the material cost savings for not applying the polymer was \$4,500.

\$4,500 + \$46,189.00 = \$50,689.00

4. Recalculation of Penalty based on New Information-

Total Penalty: \$50,689.00