

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

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BEFORE THE ADMINISTRATOR

In the Matter of )  
 )  
 Jack Golden ) Docket No. CWA-10-99-0188  
 )  
 Respondent )

NOTICE OUTLINING PROCEDURES FOR  
ALTERNATIVE DISPUTE RESOLUTION

This notice will set forth the guidelines, procedures, and options that may be followed in the alternative dispute resolution ("ADR") process that the parties requested in this proceeding.

The procedure is flexible, and subject to the agreement of the parties. Generally, my preferred procedure is a one-day in-person mediation in which I will act as a neutral. Two days may be reserved for complex cases. I have found that a concentrated in-person mediation fosters an atmosphere more conducive to reaching a settlement, and, in the long run, results in a more efficient use of time and resources, than does a series of telephone calls extended over a period of months. Generally, mediation over the telephone may be used when arrangement of a face-to-face session is not practical, or the case appears amenable to settlement without much active intervention of the neutral.

If an in-person mediation is held, it would begin with a joint session at which I explain the procedures to both parties. The parties then provide information and state their general interests and positions in this case. Subsequently, I meet in separate sessions with each party, in which they can more freely communicate their goals and interests, as we work towards developing settlement options. Additional separate and joint meetings may be held, as appropriate, until some resolution of the controversy is reached. If telephone consultations are held, I would similarly engage in a series of joint and separate telephone calls with the parties. Before any mediation takes place, I usually ask the parties to submit informal written statements of their positions, and supporting documentary material, in order to familiarize me with the issues.

In mediation, any agreement that results will be a voluntary product of the parties' negotiations. As the mediator, I will do

everything in my power to assist the parties in reaching such an agreement. That could include such techniques as facilitating communication, evaluating the parties' positions, and suggesting options. However, a mediator, unlike a judge or an arbitrator, does not have the power to make a decision on the issues arising in the proceeding. The parties must decide if a proposed resolution satisfies their respective needs.

Each party should be represented by a person with authority to commit to a settlement, or have ready access to such a person. Of course parties may be represented by counsel. In addition, each party may have one or two additional counsel or technical advisors present as well.

Anything that takes place in the mediation process will remain completely confidential in that it will not be communicated outside of this process, and may not be used in any ensuing litigation. In addition, the content of the parties' separate meetings with the mediator will not be divulged to the other party, at the party's request.

The ADR process is flexible, however, and may be tailored or altered to suit the parties' needs or desires. Instead of the type of mediation described above, the process could consist of a more abbreviated neutral evaluation of the parties' positions, fact-finding, or even a mini-trial or arbitration. In short, I will attempt to provide any type of ADR process that the parties agree upon.

The mediation or other ADR process is intended to be reserved for those cases in which the parties genuinely require the assistance of a neutral in order to increase their chances of reaching a settlement. Therefore the parties should use the intervening time to exchange information and negotiate directly in an attempt to reach an unassisted settlement, or to at least narrow the issues and reduce your differences.

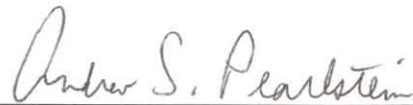
Within the next week or two, I will contact the parties to arrange a telephone conference call. The purpose of the call is to get an idea of the status of negotiations and to discuss the procedural options for the ADR process. In this initial call, we will generally not discuss the substantive issues in the case. We may schedule a date and location for the mediation session if appropriate. ADR sessions may be held at the EPA's Regional Office or a location convenient to the Respondent. We will also discuss

the exchange of additional written information on the parties' positions, beyond the complaint and answer, which will usually be helpful to the ADR process.

For your convenience, following are the telephone and fax numbers for my legal assistant, Marion Walzel, and myself:

Telephone:           (202) 564-6261 (Marion Walzel)  
                          (202) 564-6278 (Andrew Pearlstein)  
Fax:                   (202) 565-0044

If you have any questions, suggestions, or comments on this ADR process, please feel free to contact me at any time.



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Andrew S. Pearlstein  
Administrative Law Judge

Dated: February 3, 2000  
Washington, D.C.

In the Matter of Jack Golden  
Docket No. CWA-10-99-0188

**CERTIFICATE OF SERVICE**

I certify that the foregoing Notice Outlining Procedures for Alternative Dispute Resolution, dated February 3, 2000, was sent this day in the following manner to the below addressees.

Original by Regular Mail to: Mary A. Shillcutt  
Regional Hearing Clerk  
U.S. EPA Region 10  
1200 Sixth Avenue  
Seattle, WA 98101

Copy by Regular Mail to:

Counsel for Complainant: Deborah Hilsman, Esq.  
U.S. EPA Region 10  
1200 Sixth Avenue, ORC-158  
Seattle, WA 98101

Counsel for Respondent: Karl W. Ferrier, Esq.  
P.O. Box 1159  
Ocean Park, WA 98640



Helen Handon  
Legal Staff Assistant

Dated: February 4, 2000  
Washington, D.C.