



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

SEP 28 2012

Ref: 8ENF-UFO

**CERTIFIED MAIL # 7009 3410 0000 2597 1518**  
**RETURN RECEIPT REQUESTED**

Thomas H. Simpson  
Simpson Motorcars Ltd.  
d/b/a Simpson Honda  
8450 Huffine Lane  
Bozeman, MT 59718

Re: UNDERGROUND INJECTION  
CONTROL PROGRAM (UIC)  
Complaint with Notice of Opportunity  
for Hearing

Dear Mr. Simpson:

The enclosed document is a Complaint with Notice of Opportunity for Hearing (Complaint) for violations of the Safe Drinking Water Act (SDWA). We encourage you to carefully read the Complaint, since it describes Simpson Motorcars Ltd., d/b/a Simpson Honda's (Simpson Honda's), rights and responsibilities in this matter as well as EPA's authority, the factual basis of the violations, and the background for the proposed penalties. Also enclosed is a copy of the Rules of Practice that govern these proceedings, the required Public Notice associated with this Complaint and, in case Simpson Honda meets the criteria, an information sheet about the Small Business Regulatory Enforcement Fairness Act.

**Simpson Honda is required to take action within 30 calendar days of your receipt of this Complaint** to avoid the possibility of having a default judgment entered against Simpson Honda that could impose the penalty amount proposed in the Complaint.

Under the Rules of Practice, Simpson Honda may resolve this proceeding by paying the \$8,900 proposed penalty when the quick resolution process becomes available. In this instance, the quick resolution process is available ten (10) calendar days after the close of the public comment period described in the Complaint. Such payment need not contain any response to, or admission of, the allegations in the Complaint, and it constitutes a waiver of Respondent's right to contest the allegations and to appeal the final order. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process, including the method for seeking an extension of the time to pay the penalty. Whether or not Simpson Honda requests a hearing, we encourage an informal conference with EPA concerning the alleged violations in an effort to negotiate a settlement. Simpson Honda may wish to appear at an informal conference and/or be

represented by legal counsel. To arrange for such a conference, Simpson Honda should contact Eduardo Quintana, Enforcement Attorney, Legal Enforcement Program, at the number provided below. A request for such a conference does not extend the 30 calendar day period during which a request for hearing must be submitted.

Public Notice of EPA's Complaint and the opportunity to provide written comments on the Complaint is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the Complaint has a right to participate in the hearing.

The EPA issued a Class V Underground Injection Permit MT50985-06598 (the Permit) to Simpson Honda. Simpson Honda is in violation of 40 C.F.R. § 144.51(l)(4) for failing to conduct sampling events and report such events for the 2011 calendar year. Simpson Honda is in violation of 40 C.F.R. §144.51(a) for exceeding the Permit limits for five constituents. Simpson Honda is also in violation of 40 C.F.R. § 144.51(l)(6) for failing to notify the EPA of its constituent exceedances within the timeframes required by the Permit. Failure to comply with the UIC regulations found at 40 C.F.R. part 144 is a violation of the SDWA, 42 U.S.C. § 300h.

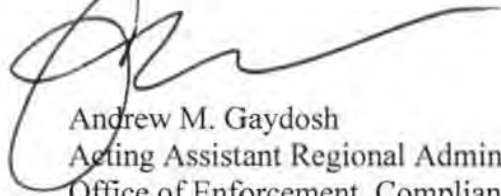
If Simpson Honda has technical questions relating to this matter, the person most knowledgeable on my staff is Britta Copt, UIC Enforcement Team, Technical Enforcement Program, at 1-800-227-8917 ext. 6229 or (303) 312-6229. For all legal questions, the person most knowledgeable on my staff is Eduardo Quintana at 1-800-227-8917 ext. 6924 or (303) 312-6924. Ms. Copt and Mr. Quintana can also be reached at the following addresses:

Britta Copt (Mail Code 8ENF-UFO)  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

Eduardo Quintana (Mail Code 8ENF-L)  
Enforcement Attorney  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'AG', with a long horizontal flourish extending to the right.

Andrew M. Gaydosh  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures:

Complaint and Opportunity to Request Hearing  
40 C.F.R. Part 22  
Public Notice  
U.S. EPA Small Business Resources Fact Sheet

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2012 SEP 28 PM 3:50

Docket No. SDWA-08-2012-0063

REGION 8  
EPA REGION 8  
DENVER, COLORADO

In the Matter of: )

Simpson Motorcars, LTD )  
d/b/a Simpson Honda, )

**COMPLAINT WITH NOTICE OF  
OPPORTUNITY FOR HEARING**

Respondent. )

**INTRODUCTION**

1. This civil Complaint With Notice of Opportunity for Hearing (Complaint) is authorized by Congress in section 1423(c) of the Public Health Service Act, also known as the Safe Drinking Water Act (SDWA or the Act). 42 U.S.C. § 300h-2(c). The U.S. Environmental Protection Agency (EPA) has promulgated regulations to implement the statute in 40 CFR part 144, and violations of the statute, permits or regulations constitute violations of the Act. The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits (Rules of Practice)," 40 CFR part 22, a copy of which is enclosed.

2. The regulations at 40 CFR part 22, subpart I, apply to this Complaint.

3. The undersigned EPA official has been properly delegated the authority to issue this Complaint.

4. The EPA alleges that Simpson Motorcars, LTD, d/b/a Simpson Honda (Respondent), has violated the Act by failing to submit to the EPA a sampling analysis report by its due date, exceeding permit limits or Maximum Contaminant Levels (MCL) for five constituents, and failing to notify the EPA of its permit exceedances. The EPA proposes the assessment of a civil penalty, as more fully explained below.

**NOTICE OF OPPORTUNITY FOR A HEARING**

5. Respondent has the right to a public hearing before a Presiding Officer to disagree with any factual allegation made by the EPA in the Complaint or the appropriateness of the proposed penalty, or to present the grounds for any legal defense it may have. To disagree with the Complaint and assert your right to a hearing, Respondent must file a written answer (and one copy) with the Regional Hearing Clerk (8RC), 1595 Wynkoop Street, Denver, Colorado 80202

within thirty (30) calendar days of receipt of this Complaint. 40 CFR §22.15(a). The answer must clearly admit, deny or explain the factual allegations of the Complaint, state the grounds for any defense, the facts you may dispute, and your specific request for a public hearing. Please see section 22.15 of the Rules of Practice for a complete description of what must be in the answer.

**FAILURE TO FILE AN ANSWER AND REQUEST FOR HEARING WITHIN THIRTY (30) CALENDAR DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF THE PENALTY PROPOSED IN THE COMPLAINT, OR UP TO THE MAXIMUM AUTHORIZED BY THE ACT.**

### **QUICK RESOLUTION**

6. Respondent may resolve this proceeding by paying the amount proposed in the Complaint ten (10) calendar days after the close of the public comment period described in this Complaint. Such payment need not contain any response to, or admission of, the allegations in the Complaint, and it constitutes a waiver of Respondent's right to contest the allegations and to appeal the final order issued by the EPA after full payment is made. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process, including the method for seeking an extension of the time to file an answer.

### **SETTLEMENT NEGOTIATIONS**

7. The EPA encourages discussing whether cases can be settled through informal settlement conferences. If Respondent wants to pursue the possibility of settling this matter, or has any other questions, contact Eduardo Quintana, Enforcement Attorney, at 1-800-227-8917; extension 6924 or 303-312-6924 or at the address identified herein for Eduardo Quintana. **Please note that calling Mr. Quintana or requesting a settlement conference does NOT delay the running of the 30 day period for filing an answer and requesting a hearing.**

### **GENERAL ALLEGATIONS**

The following general allegations apply to all times relevant to this action, and to each count of this Complaint:

8. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. part 147 subpart BB, section 147.1351, the EPA administers the Underground Injection Control (UIC) program for Class I, III, IV, and V wells in the State of Montana. The effective date of the program is June 25, 1984. The program requirements are located at 40 C.F.R. Parts 124, 144, 146, 147, and 148.

9. On May 18, 2005, the EPA issued a Final Class V Underground Injection Permit MT50985-06598 (the Permit) pursuant to 40 C.F.R. Parts 124, 144, 146, and 147, for operation

of a Class V underground injection well, to Simpson Honda, located at 8450 Huffine Lane, Bozeman, Montana.

10. For Class V underground injection wells, operators are required to report monitoring results at the intervals specified in the Permit. 40 CFR §144.51(I)(4).

11. For Class V underground injection wells, operators are required to comply with all permit conditions, as defined in the regulations. "Any permit noncompliance constitutes a violation of the Safe Drinking Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application" except when noncompliance is authorized by an emergency permit. 40 CFR §144.51(a).

12. For Class V underground injection wells and pursuant to 40 CFR §144.51(l)(6), operators are required to "report any noncompliance which may endanger health or the environment, including:

- (i) Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW [underground source of drinking water]; or
- (ii) Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs.

Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance."

13. The Permit sets limits for certain constituents that must be measured semi-annually.

14. The Permit limit (and MCL) for antimony is 0.006 mg/L.

15. The Permit limit (and MCL-Treatment Technique) for copper is 1.3 mg/L.

16. The Permit limit for iron is 5 mg/L.

17. The Permit limit (and MCL-Treatment Technique) for lead is 0.015 mg/L.

18. The Permit limit (and Lifetime Health Advisory) for zinc is 2 mg/L.

19. The Permit states in part II, section E.3, page 9, that Respondent must collect a fluid sample from the drainfield system "at six (6) month intervals."



20. The Permit states in part II, section E.3, page 9, that the report of analysis of fluid samples “are due no later than January 1 and July 1 of each year.”

21. The Permit states in part II, section E.4, page 9 that “any unauthorized injectate or any exceedance of a Permit limit or requirement shall be considered non-compliance with this Permit and may result in enforcement action.”

22. The Permit states in part III, section E.10(c)(i), page 14 that “the Permittee shall report to the Director any noncompliance which may endanger health or the environment. Information shall be provided either orally or by leaving a message, within twenty-four (24) hours from the time the Permittee becomes aware of the circumstances...” Part III, section E.10(c)(ii), page 15 further states that “written notice of any noncompliance which may endanger health or the environment shall be provided to the Director within five (5) calendar days of the time the Permittee becomes aware of the noncompliance.”

23. On February 20, 2012, Respondent or Respondent’s consultant took a sample from its underground injection well subject to the Permit.

24. On February 29, 2012, Respondent or Respondent’s consultant completed the sampling report for the February 20, 2012, sampling event.

25. On April 12, 2012, the EPA received results from the February 20, 2012 sampling event, which showed antimony levels at 0.038 mg/L, copper levels at 3.34 mg/L, iron levels at 10.5 mg/L, lead levels at 0.053 mg/L and zinc levels at 2.64 mg/L. The February 20, 2012, sampling results for antimony, copper, iron, lead, and zinc were all above sampling limits defined in the Permit.

26. The sampling exceedances for antimony, copper, iron, lead, and zinc included in the February 29, 2012, sampling report constitutes noncompliance of the Permit and which may endanger health or the environment, specifically the USDW. Respondent’s sampling exceedances included in the February 29, 2012, sampling report are subject to the reporting requirements of part III, section E.10(c) of the Permit and 40 CFR §144.51(l)(6).

27. Respondent did not orally report to the EPA about the sampling exceedances within 24 hours of receiving the sampling results, nor did Respondent submit a written notice of noncompliance within five (5) calendar days.

28. On May 12, 2012, the Respondent took another sample from its shallow injection well subject to the Permit.

29. The EPA received results from Respondent’s May 12, 2012, sampling event on May 23, 2012. The May 23, 2012, sampling event did not detect antimony, showed copper levels at 0.29 mg/L, iron levels at 0.28 mg/L, did not detect lead and showed zinc levels at 0.11 mg/L. All results of the May 23, 2012, sampling event were below the Permit limits.

30. Prior to the February 20, 2012, sampling event, the last sampling data provided to EPA was for a sampling event conducted on November 20, 2010 and provided to EPA on January 3, 2011. Respondent failed to report to the EPA any sampling events that were due no later than July 1, 2011 and January 1, 2012. According to the EPA's records, Respondent did not conduct any sampling events subject to the Permit for the 2011 calendar year.

31. Respondent is incorporated in the State of Montana.

32. Respondent is a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12).

33. Respondent, at all times pertinent hereto, owned and operated a facility that operates a car wash which injects waste fluids as a result of its vehicle wash down. The facility is located at 8450 Huffine Lane, Bozeman, Montana.

34. Beneath the disposal system are USDWs, including but not limited to the shallow Northern Rocky Mountains Intermontane Basin Aquifer System.

### **COUNTS**

35. Respondent is in violation of 40 C.F.R. § 144.51(l)(4) and the Permit for failing to report sampling results that were due on or before July 1, 2011 and January 1, 2012, as required by the Permit. Respondent's violation for failing to report sampling results occurred between July 1, 2011, and January 1, 2012. Failure to comply with the UIC regulations found at 40 C.F.R. part 144 and the Permit is a violation of the SDWA, 42 U.S.C. § 300h.

36. Respondent was in violation of 40 C.F.R. §144.51(a) and the Permit for exceeding the Permit limits for antimony, copper, iron, lead, and zinc. Respondent's violation for exceeding its Permit limits occurred on February 20, 2012. Failure to comply with the UIC regulations found at 40 C.F.R. part 144 and the Permit is a violation of the SDWA, 42 U.S.C. § 300h.

37. Respondent was in violation of 40 C.F.R. § 144.51(l)(6) and the Permit for failing to verbally notify the EPA of its Permit exceedances within 24 hours of the February 29, 2012, sampling analysis report, and for failing to notify the EPA in writing of its Permit exceedances within 5 days of the February 29, 2012, sampling analysis report. Failure to comply with the UIC regulations found at 40 C.F.R. part 144 and the Permit is a violation of the SDWA, 42 U.S.C. § 300h.

### **PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY**

38. The Act, as amended, authorizes the assessment of a civil penalty of up to \$16,000.00 per day for each violation of the Act, up to a maximum of \$177,500,



42 U.S.C. § 300h-2(c)(1). The Act requires the EPA to take into account the following factors in assessing a civil penalty: the nature, circumstances, extent and gravity of the violations; any economic benefit or savings gained resulting from the violations; Respondent's history of such violations; Respondent's culpability for the violations; Respondent's good-faith efforts to comply with applicable requirements; the economic impact of the penalty on the Respondent; and other factors that justice may require. 42 U.S.C. § 300h-2(c)(4)(B).

39. In light of the statutory factors and the specific facts of this case, the EPA proposes that a penalty of eight thousand nine hundred dollars (\$8,900.00) be assessed against Respondent for the violations alleged above, as explained below:

Nature, Circumstances, Extent, and Gravity of Violations

Failing to prevent the movement of fluids containing any contaminant in exceedance of the Permit limits into a USDW is serious because of the threats to the quality and health of the Aquifer and the potential threats to health of persons posed by Respondent's noncompliance.

Prior Compliance History

An adjustment was made to the proposed penalty due to the fact that Respondent had a similar violation in the past.

Good-Faith Efforts to Comply

No adjustment was made regarding this factor at this time.

Degree of Culpability

No adjustment was made regarding this factor at this time.

Economic Benefit

Any economic benefit of exceeding the Permit limits was negligible.

Ability to Pay

The EPA did not reduce the proposed penalty due to this factor, but will consider any new information Respondent may present regarding Respondent's ability to pay the penalty proposed in this Complaint.

Other Matters that Justice may Require

An adjustment was made to the proposed penalty due to the fact that Respondent had control over the violations and did not take precautions to avoid the violations.

40. The EPA, in proposing this penalty, considered the following: (a) there are underground sources of drinking water contained in the geologic formations in the area where this well is located; (b) wells with this type of violation pose an elevated risk to underground sources of drinking water; and (c) Respondent has had continuous ability to address the alleged violations.

41. Respondent's payment of the penalty shall be made by money order or certified check made payable to "Treasurer, United States of America," include the docket number of this compliant, and mailed to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

A copy of said check shall be mailed to the following address:

Eduardo Quintana (8ENF-L)  
Enforcement Attorney  
U.S. EPA - Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

42. As required by the Act, prior to the assessment of a civil penalty, the EPA will provide public notice of the proposed penalty, and reasonable opportunity for the people to comment on the matter, and present evidence in the event a hearing is held. 42 U.S.C. § 1423(c)(3)(B).

43. The Presiding Officer is not bound by the EPA's penalty policy or the penalty proposed by the EPA, and may assess a penalty above the proposed amount, up to the \$16,000.00 per day for each violation, as authorized by the Act.

44. This Complaint does not constitute a waiver, suspension, or modification of the requirements of any applicable provision of the Act or the UIC regulations implementing the Act, which remain in full force and effect. Issuance of this Complaint is not an election by the EPA to forego any civil or any criminal action otherwise authorized under the Act.

Date: Sept 28, 2012

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a long horizontal line extending to the right.

Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance,  
and Environmental Justice

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the original and one copy of the COMPLAINT WITH NOTICE OF OPPORTUNITY FOR HEARING was hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same, with enclosures, was sent via certified mail to:

Thomas H. Simpson  
Registered Agent for Simpson Motorcars Ltd.  
d/b/a Simpson Honda  
8450 Huffine Lane  
Bozeman, MT 59718

09/28/2012  
Date

Sue Zaynard  
Sue Zaynard

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
PUBLIC NOTICE  
OPPORTUNITY FOR PUBLIC COMMENT ON  
PROPOSED PENALTY COMPLAINT  
AND  
NOTICE OF OPPORTUNITY FOR HEARING  
AGAINST  
SIMPSON MOTORCARS, LTD.  
D/B/A SIMPSON HONDA  
FOR FAILURE TO COMPLY WITH  
UNDERGROUND INJECTION CONTROL REQUIREMENTS**

**PURPOSE OF PUBLIC NOTICE**

The purpose of this notice is to solicit written comments on a Proposed Penalty Complaint and Notice of Opportunity for Hearing (complaint), Docket #~~SDWA-08-2012-0063~~ that Region 8 of the United States Environmental Protection Agency (EPA) proposes to issue to Simpson Motorcars, Ltd. d/b/a Simpson Honda for alleged violations at the facility located in Bozeman, Montana. The complaint alleges violations of the Safe Drinking Water Act (SDWA) and the regulations detailing the requirements of the SDWA's Underground Injection Control (UIC) program. These regulations govern the injection of fluids that may endanger an underground source of drinking water (USDW). The complaint proposes the assessment of a monetary penalty in the amount of \$8,900.

The EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the complaint is appropriate. The EPA will review and consider all comments received, and will thereafter determine whether to modify or withdraw the complaint.

**BACKGROUND**

Part C of the SDWA (40 U.S.C. §300h *et seq*) requires the EPA to regulate underground injection of fluid through wells to assure that underground sources of drinking water (USDWs) are not endangered. Section 1421 of the SDWA (40 U.S.C. §300h) requires the EPA to administer UIC programs in States that do not have approved State UIC programs. Regulation of the UIC Class V Program has not been delegated to the State of Montana; therefore, the EPA administers the program in accordance with title 40 of the Code of Federal regulations (40 C.F.R.), Parts 124, 144, 146, 147, and 148.

The Class V disposal system which is the subject of this complaint is located at 8540 Huffine Lane, Bozeman, Montana. A Class V injection well, pursuant to 40 C.F.R. 144.6 and 146.5, is a shallow injection well that injects fluids into or above a USDW.

The complaint alleges that Simpson Motorcars, Ltd. d/b/a Simpson Honda is in violation of UIC requirements, and is subject to appropriate penalties and fines for: failing to conduct any required sampling and report any sampling for the 2011 calendar year; exceeding its permit limits or



Maximum Contaminant Levels (MCL) for antimony, copper, iron, lead and zinc; failing to notify the EPA orally within twenty four hours of any noncompliance which may endanger health or the environment; and failing to submit to the EPA written notification within five calendar days of the noncompliance.

**PUBLIC COMMENTS**

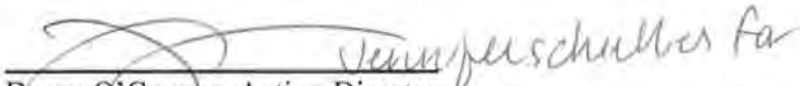
Written comments on the complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) calendar days after the publication of this notice. Written comments submitted by the public as well as information submitted by Simpson Motorcars, Ltd. d/b/a Simpson Honda will be available for public review as part of the Administrative Record, subject to the provisions of law restricting the disclosure of confidential information. Simpson Motorcars, Ltd. d/b/a Simpson Honda may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The complaint and the Administrative Record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. It is recommended that those wishing to view the Administrative Record call Eduardo Quintana, Enforcement Attorney, Legal Enforcement Program, EPA Region 8, at (303) 312-6924 before visiting the EPA Region 8 offices. Please submit written comments to:

Tina Artemis (8RC)  
Regional Hearing Clerk  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

Any person interested in receiving their own copy of this or any future public notice of a UIC administrative action can call Britta Copt in the UIC program, EPA Region 8, at (303) 312-6229.

**THE DECISION**

The EPA will review and consider all public comments received on the public notice and will thereafter determine whether to modify or withdraw the complaint. If the complaint is revised, copies shall be provided to all parties and to all members of the public who have commented.

  
Darcy O'Connor, Acting Director  
UIC/FIFRA/OPA Technical Enforcement Program  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202