

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
) Docket No. CWA 07-2009-0073
)
MID-AMERICAN COACHES, INC.)
)
)
WASHINGTON, MISSOURI) COMPLAINT, NOTICE OF
) PROPOSED PENALTY AND
) NOTICE OF OPPORTUNITY FOR
) HEARING
)
Respondent,)
)
)
Proceedings under Section 309(g) of the)
Clean Water Act, 33 U.S.C. § 1319(g))

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FIRST AMENDED COMPLAINT

The United States Environmental Protection Agency, ("EPA") by the authority vested in the Administrator of EPA states and alleges as follows:

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act ("CWA") 33 U.S.C. § 1319(g), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22 (Consolidated Rules).

2. This Complaint serves as notice that EPA has reason to believe that Respondent has violated Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and the regulations promulgated thereunder.

Parties

3. The authority to take action under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), is vested in the Administrator of EPA. The Administrator has delegated authority to the Regional Administrator, EPA, Region 7, who in turn, has delegated it to the Director of the Water, Wetlands and Pesticides Division of EPA, Region 7 ("Complainant").

4. Respondent is Mid-American Coaches, Inc. (Mid-American), a corporation authorized to conduct business in the State of Missouri (Missouri).

Statutory and Regulatory Framework

5. The CWA was designed to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Section 101(a) of the CWA, 33 U.S.C. § 1251(a).

6. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants, except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA, 33 U.S.C. § 1342, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to that Section.

7. The CWA prohibits the "discharge of pollutants" from a "point source" into a "navigable water" of the United States as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362. Section 502 of the CWA states that "navigable waters" means the waters of the United States.

8. "Pollutant" is defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6) to include, *inter alia*, sewage, garbage sewage, sludge, biological materials, and industrial wastewater discharged to water.

9. "Point source" is defined by Section 502(14) of the CWA, 33 U.S.C. § 1362 (14) to include "any discernable, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged."

10. To implement Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, EPA promulgated regulations codified at 40 C.F.R. § 122. Under 40 C.F.R. § 122.1, a NPDES permit is required for any point source that discharges or proposes to discharge into waters of the United States.

11. "Waters of the United States" are defined in 40 C.F.R. § 122.2 to include intrastate rivers and streams and tributaries thereto.

12. The Missouri Department of Natural Resources (MDNR) is the state agency with the authority to administer the federal NPDES program in Missouri pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, implementing regulations, and a Memorandum of Understanding dated October 30, 1974. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

Factual Background

13. Respondent is a "person" as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
14. The Respondent, Mid-American Coaches, Inc., located at 4530 Hwy. 47, Washington, Missouri 63090-5264, owns and operates a bus maintenance facility. The Respondent owns 22 buses, which are maintained and serviced at the Washington, Missouri facility. The Respondent's activities at the site include routine maintenance, mechanical work, vehicle washing, and discharge of the bus on-board restroom sanitary wastes.
15. The Respondent owns and operates a wastewater treatment plant (WWTP) that receives and treats facility process wastewater from the various activities conducted by Respondent at its facility.
16. The Respondent's WWTP is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
17. The Respondent's WWTP causes the "discharge of pollutants" as defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12).
18. The Respondent's WWTP discharges pollutants into an unnamed tributary of Busch Creek, a tributary to the Missouri River. The unnamed tributary of Busch Creek, Busch Creek, and the Missouri River are waters of the United States, as defined by 40 C.F.R. Part 122.2.
19. The Respondent's discharge of pollutants from its WWTP requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
20. MDNR granted an NPDES Permit No. MO-0113964 to Respondent effective July 23, 2004, through July 22, 2009, for discharges from its WWTP into an unnamed tributary of Busch Creek.
21. The Respondent's NPDES permit contains a compliance schedule for meeting the effluent limits for fecal coliform; effluent limitations for discharge from the WWTP; reporting requirements; and requirements for sampling procedures.
22. Failure to comply with conditions of an NPDES permit is a violation of the CWA and its implementing regulations, 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.41(a).
23. On April 22-23, 2008, EPA performed an inspection of the Respondent's wastewater treatment facility under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a). Included in the inspection was observation of the Respondent's WWTP and sampling of the waste stream.

Findings of Violation

Count I

Failure to Comply with Compliance Schedule in NPDES Permit

24. The allegations contained in Paragraphs 1-23 are incorporated as if fully set forth herein.

25. The Respondent's NPDES Permit No. MO-0113964, Part D, Compliance Schedule, requires that the permittee upgrade the treatment facility to meet the effluent limits for fecal coliform with the following schedule:

- a. By November 30, 2004, submit an engineering report identifying the steps to improve the existing treatment facility or eliminate the discharge.
- b. By March 31, 2005, submit plans and specifications and an application with the appropriate fee for a construction permit to improve the existing facility or eliminate the discharge.
- c. By May 31, 2006, this project shall be completed in accordance with the approved plans and specifications. This facility shall meet the fecal coliform limitations listed in Part A of this permit.

26. The Respondent did not complete any of the activities required by the Compliance Schedule. At the time of EPA's inspection, no steps had been taken to meet Part D of the Respondent's Permit.

27. By failing to comply with the Compliance Schedule set forth in Respondent's NPDES Permit, the Respondent violated the terms and conditions of its NPDES Permit, and as such, violated Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and the implementing regulations.

Count II

Violation of Effluent Limitations

28. The allegations contained in Paragraphs 1-23 are incorporated as if fully set forth herein.

29. The Respondent's NPDES Permit, No. MO-0113964, Part A, Effluent Limitations and Monitoring Requirements, sets the following limits for discharges from outfall #001 to the unnamed tributary to Busch Creek. The limits became effective upon permit issuance:

- a. Total Suspended Solids shall be limited to a daily maximum of 45 milligrams per Liter (mg/L) and a monthly average of 30 mg/L.

- b. Fecal Coliform shall be limited to a daily maximum of 1000#/100 milliliter (mL) and a monthly average of 400#/100 mL.
- c. Total Phosphorus shall be limited to 0.5 mg/l as a daily maximum and 0.5 mg/L as a monthly average.
- d. Chemical Oxygen Demand shall be limited to 30 mg/L as a daily maximum and 20 mg/L as a monthly average.
- e. Sodium shall be limited to 250 mg/L as a daily maximum and 250 mg/L as a monthly average.
- f. Chloride shall be limited to 250 mg/L as a daily maximum and 250 mg/L as a monthly average.
- g. Temperature shall be limited to 90 degrees Fahrenheit as a daily maximum and 90 degrees Fahrenheit as a monthly average.

30. A review of Discharge Monitoring Reports revealed that Respondent's discharge exceeded the permitted limit for Total Suspended Solids (TSS) as follows:

| Date | Value | Limit | Reported Value |
|---------|--------------|---------|----------------|
| 5/2/07 | monthly avg. | 30mg/L | 34 mg/L |
| 8/22/07 | daily max | 45mg/L | 57.2 mg/L |
| 8/22/07 | monthly avg. | 30 mg/L | 57.2 mg/L |
| 11/7/07 | monthly avg. | 30 mg/L | 36.8 mg/L |
| 2/20/08 | monthly avg. | 30 mg/L | 40.7 mg/L |
| 5/14/08 | monthly avg. | 30 mg/L | 49.2 mg/L |
| 5/14/08 | daily max | 45 mg/L | 49.2 mg/L |

31. A review of Discharge Monitoring Reports revealed that Respondent's discharge exceeded the permitted limit for Fecal Coliform as follows:

| Date | Value | Limit | Reported Value |
|----------|--------------|-------------|-----------------|
| 5/18/05 | daily max. | 1000/100 mL | 3600/100mL |
| 5/18/05 | monthly avg. | 400/100 mL | 3600/100 mL |
| 8/18/05 | daily max. | 1000/100 mL | 4600/100 mL |
| 8/18/05 | monthly avg. | 400/100 mL | 4600/100 mL |
| 5/4/06 | daily max. | 1000/100 mL | 4400/100 mL |
| 5/4/06 | monthly avg. | 400/100 mL | 4400/100 mL |
| 8/2/06 | daily max. | 1000/100 mL | > 40,000/100 mL |
| 8/2/06 | monthly avg. | 400/100 mL | > 40,000/100 mL |
| 11/16/06 | daily max. | 1000/100 mL | > 40,000/100 mL |
| 11/16/06 | monthly avg. | 400/100 mL | > 40,000/100 mL |
| 2/8/07 | daily max. | 1000/100 mL | 1440/100 mL |

| | | | |
|---------|--------------|-------------|--------------|
| 2/8/07 | monthly avg. | 400/100 mL | 1440/100 mL |
| 5/2/07 | daily max. | 1000/100 mL | 4600/100 mL |
| 5/2/07 | monthly avg. | 400/100 mL | 4600/100 mL |
| 8/22/07 | daily max. | 1000/100 mL | 2080/100 mL |
| 8/22/07 | monthly avg. | 400/100 mL | 2080/100 mL |
| 11/7/07 | daily max. | 1000/100 mL | 2080/100 mL |
| 11/7/07 | monthly avg. | 400/100 mL | 2080/100 mL |
| 2/20/08 | daily max. | 1000/100 mL | 4800/100 mL |
| 2/20/08 | monthly avg. | 400/100 mL | 4800/100 mL |
| 5/14/08 | daily max. | 1000/100 mL | 1527/100 mL |
| 5/14/08 | monthly avg. | 400/100 mL | 1527/100 mL |
| 8/27/08 | daily max. | 1000/100 mL | 20000/100 mL |
| 8/27/08 | monthly avg. | 400/100 mL | 20000/100 mL |
| 2/12/09 | monthly avg. | 400/100 mL | 408/100 mL |
| 8/21/09 | monthly avg. | 400/100 mL | 440/100 mL |

32. A review of Discharge Monitoring Reports revealed that Respondent's discharge exceeded the permitted limit for Total Phosphorus as follows:

| Date | Value | Limit | Reported Value |
|----------|--------------|----------|----------------|
| 8/18/05 | daily max. | 0.5 mg/L | 5.94 mg/L |
| 8/18/05 | monthly avg. | 0.5 mg/L | 5.94 mg/L |
| 11/16/05 | daily max. | 0.5 mg/L | 12.3 mg/L |
| 11/16/05 | monthly avg. | 0.5 mg/L | 12.3 mg/L |
| 2/2/06 | daily max. | 0.5 mg/L | 9.92 mg/L |
| 2/2/06 | monthly avg. | 0.5 mg/L | 9.92 mg/L |
| 5/4/06 | daily max. | 0.5 mg/L | 11.5 mg/L |
| 5/4/06 | monthly avg. | 0.5 mg/L | 11.5 mg/L |
| 8/2/06 | daily max. | 0.5 mg/L | 17.8 mg/L |
| 8/2/06 | monthly avg. | 0.5 mg/L | 17.8 mg/L |
| 11/16/06 | daily max. | 0.5 mg/L | 23.3 mg/L |
| 11/16/06 | monthly avg. | 0.5 mg/L | 23.3 mg/L |
| 2/8/07 | daily max. | 0.5 mg/L | 16.5 mg/L |
| 2/8/07 | monthly avg. | 0.5 mg/L | 16.5 mg/L |
| 5/2/07 | daily max. | 0.5 mg/L | 15.5 mg/L |
| 5/2/07 | monthly avg. | 0.5 mg/L | 15.5 mg/L |
| 11/7/07 | daily max. | 0.5 mg/L | 10.6 mg/L |
| 11/7/07 | monthly avg. | 0.5 mg/L | 10.6 mg/L |
| 2/20/08 | daily max. | 0.5 mg/L | 7.75 mg/L |
| 2/20/08 | monthly avg. | 0.5 mg/L | 7.75 mg/L |
| 4/22/08 | daily max. | 0.5 mg/L | 10 mg/L |
| 4/22/08 | monthly avg. | 0.5 mg/L | 10 mg/L |
| 4/23/08 | daily max. | 0.5 mg/L | 11.6 mg/L |
| 4/23/08 | monthly avg. | 0.5 mg/L | 11.6 mg/L |
| 5/14/08 | daily max. | 0.5 mg/L | 15.8 mg/L |

| | | | |
|----------|--------------|----------|-----------|
| 5/14/08 | monthly avg. | 0.5 mg/L | 15.8 mg/L |
| 8/27/08 | daily max. | 0.5 mg/L | 4.66 mg/L |
| 8/27/08 | monthly avg. | 0.5 mg/L | 4.66 mg/L |
| 11/12/09 | daily max. | 0.5 mg/L | 10.5 mg/L |
| 11/12/09 | monthly avg. | 0.5 mg/L | 10.5 mg/L |
| 2/12/09 | daily max. | 0.5 mg/L | 1.83 mg/L |
| 2/12/09 | monthly avg. | 0.5 mg/L | 1.83 mg/L |
| 5/7/09 | daily max. | 0.5 mg/L | 2.38 mg/L |
| 5/7/09 | monthly avg. | 0.5 mg/L | 2.38 mg/L |
| 8/21/09 | daily max. | 0.5 mg/L | 2.68 mg/L |
| 8/21/09 | monthly avg. | 0.5 mg/L | 2.68 mg/L |

33. A review of Discharge Monitoring Reports revealed that Respondent's discharge exceeded the permitted limit for Chemical Oxygen Demand (COD) as follows:

| Date | Value | Limit | Reported Value |
|----------|--------------|---------|----------------|
| 8/18/05 | monthly avg. | 20 mg/L | 25.2 mg/L |
| 11/16/05 | daily max. | 30 mg/L | 37 mg/L |
| 11/16/05 | monthly avg. | 20 mg/L | 37 mg/L |
| 2/2/06 | daily max | 30 mg/L | 32.5 mg/L |
| 2/2/06 | monthly avg. | 20 mg/L | 32.5 mg/L |
| 5/4/06 | daily max | 30 mg/L | 57.7 mg/L |
| 5/4/06 | monthly avg. | 20 mg/L | 57.7 mg/L |
| 8/2/06 | monthly avg. | 20 mg/L | 20.2 mg/L |
| 11/16/06 | daily max | 30 mg/L | 38 mg/L |
| 11/16/06 | monthly avg. | 20 mg/L | 38 mg/L |
| 2/8/07 | daily max | 30 mg/L | 52.7 mg/L |
| 2/8/07 | monthly avg. | 20 mg/L | 52.7 mg/L |
| 5/2/07 | daily max | 30 mg/L | 36.7 mg/L |
| 5/2/07 | monthly avg. | 20 mg/L | 36.7 mg/L |
| 11/7/07 | monthly avg. | 20 mg/L | 30 mg/L |
| 2/20/08 | daily max | 30 mg/L | 84 mg/L |
| 2/20/08 | monthly avg. | 20 mg/L | 84 mg/L |
| 4/22/08 | monthly avg. | 20 mg/L | 28.9 mg/L |
| 5/14/08 | monthly avg. | 20 mg/L | 31 mg/L |
| 5/14/08 | daily max. | 30 mg/L | 31 mg/L |
| 8/27/08 | monthly avg. | 20 mg/L | 25 mg/L |
| 11/12/08 | monthly avg. | 20 mg/L | 26 mg/L |
| 8/21/09 | monthly avg. | 20 mg/L | 22 mg/L |

34. A review of Discharge Monitoring Reports revealed that Respondent's discharge exceeded the permitted limit for Sodium as follows:

| Date | Value | Limit | Reported Value |
|---------|------------|----------|----------------|
| 8/18/05 | daily max. | 250 mg/L | 339 mg/L |

| | | | |
|----------|--------------|----------|----------|
| 8/18/05 | monthly avg. | 250 mg/L | 339 mg/L |
| 11/16/05 | daily max. | 250 mg/L | 265 mg/L |
| 11/16/05 | monthly avg. | 250 mg/L | 265 mg/L |
| 2/2/06 | daily max. | 250 mg/L | 365 mg/L |
| 2/2/06 | monthly avg. | 250 mg/L | 365 mg/L |
| 5/4/06 | daily max. | 250 mg/L | 316 mg/L |
| 5/4/06 | monthly avg. | 250 mg/L | 316 mg/L |
| 8/2/06 | daily max. | 250 mg/L | 398 mg/L |
| 8/2/06 | monthly avg. | 250 mg/L | 398 mg/L |
| 11/16/06 | daily max. | 250 mg/L | 431 mg/L |
| 11/16/06 | monthly avg. | 250 mg/L | 431 mg/L |
| 2/8/07 | daily max. | 250 mg/L | 584 mg/L |
| 2/8/07 | monthly avg. | 250 mg/L | 584 mg/L |
| 2/20/08 | daily max. | 250 mg/L | 320 mg/L |
| 2/20/08 | monthly avg. | 250 mg/L | 320 mg/L |
| 5/14/08 | daily max. | 250 mg/L | 550 mg/L |
| 5/14/08 | daily max. | 250 mg/L | 550 mg/L |

35. A review of Discharge Monitoring Reports revealed that Respondent's discharge exceeded the permitted limit for Chloride as follows:

| Date | Value | Limit | Reported Value |
|----------|--------------|----------|----------------|
| 11/16/05 | daily max. | 250 mg/L | 407 mg/L |
| 11/16/05 | monthly avg. | 250 mg/L | 407 mg/L |
| 2/2/06 | daily max. | 250 mg/L | 363 mg/L |
| 2/2/06 | monthly avg. | 250 mg/L | 363 mg/L |
| 8/2/06 | daily max. | 250 mg/L | 1264 mg/L |
| 8/2/06 | monthly avg. | 250 mg/L | 1264 mg/L |
| 11/16/06 | daily max. | 250 mg/L | 316 mg/L |
| 11/16/06 | monthly avg. | 250 mg/L | 316 mg/L |
| 2/8/07 | daily max. | 250 mg/L | 631 mg/L |
| 2/8/07 | monthly avg. | 250 mg/L | 631 mg/L |
| 11/7/07 | daily max. | 250 mg/L | 254 mg/L |
| 11/7/07 | monthly avg. | 250 mg/L | 254 mg/L |
| 2/20/08 | daily max. | 250 mg/L | 315 mg/L |
| 2/20/08 | monthly avg. | 250 mg/L | 315 mg/L |
| 4/23/08 | daily max. | 250 mg/L | 352 mg/L |
| 4/23/08 | monthly avg. | 250 mg/L | 352 mg/L |
| 5/14/08 | daily max. | 250 mg/L | 251 mg/L |
| 5/14/08 | monthly avg. | 250 mg/L | 251 mg/L |

36. A review of Discharge Monitoring Reports revealed that Respondent's discharge exceeded the permitted limit for Temperature as follows:

| Date | Limit | Reported Value |
|--------|-------|----------------|
| 8/2/06 | 90° F | 98° F |

37. Respondent's discharge of pollutants in excess of permit limits are violations of the terms and conditions of the Respondent's NPDES permit, and as such, are violations of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations.

Count III

Failure to Submit Quarterly Monitoring Reports

38. The allegations contained in Paragraphs 1-23 are incorporated as if fully set forth herein.

39. Part A of Respondent's permit requires quarterly submittal of Discharge Monitoring Reports. Discharge Monitoring Reports were not submitted to MDNR in the first quarter of 2005.

40. The Respondent's failure to submit quarterly discharge monitoring reports to MDNR is a violation of the terms and conditions of the Respondent's NPDES permit, and as such, is in violation of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations.

Count IV

Failure to Conduct Sampling

41. The allegations contained in Paragraphs 1-23 are incorporated as if fully set forth herein.

42. Part A of Respondent's permit requires sampling of certain parameters to be completed on a quarterly basis with Monitoring Reports to be submitted quarterly to MDNR. Respondent failed to sample all of the parameters for each quarter as required by the Permit. A summary of the violations can be found in Attachment A.

43. Respondent's failure to conduct sampling of all parameters for each quarter as required by the Permit is a violation of the terms and conditions of the Respondent's NPDES permit, and, as such, is in violation of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations.

Relief

44. Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B) authorizes the Administrator to initiate a civil action for a permanent or temporary injunction and/or for a civil penalty of up to \$10,000 per day, not to exceed a total of \$125,000, for each violation occurring

on or before January 30, 1997; \$11,000 per day, not to exceed a total of \$137,500, for each violation occurring between January 31, 1997, and March 15, 2004; \$11,000 per day, not to exceed a total of \$157,500, for each violation occurring between March 16, 2004, and January 12, 2009; and up to \$16,000 per day, not to exceed a total of \$177,500, for each violation occurring after January 12, 2009, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410 § 4, 104 Stat. 890(1990, 28 U.S.C. § 2461 (as amended), against any person whenever such person has violated, or is in violation of, section 1311, 1312, 1316, 1317, 1318, 1328, or 1345 of the CWA, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of the CWA by the Administrator or by a State or in a permit issued under section 1344 of the CWA by a State. 33 U.S.C. § 309(g).

45. Based on the foregoing Finding of Violations and pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA Region 7, hereby proposes to issue a Final Order Assessing an Administrative Penalty against the Respondent for the violations cited above, in the amount of up to \$11,000 per day for each day during which a violation occurred after March 16, 2004, up to a maximum of \$157,500.

46. The proposed penalty is based on the facts stated in this Complaint, the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, ability to pay, and prior history of such violation, the degree of culpability, economic benefit or savings resulting from the violation, and such other matters as justice may require.

47. The penalty proposed in this Complaint is based on the best information available to EPA at the time that the Complaint was issued. The penalty may be adjusted if the Respondent establishes bona fide issues of ability to pay, or other defenses relevant to the appropriate amount of the proposed penalty.

48. As required by Section 309 (g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), before the assessment of a civil penalty, EPA will provide public notice of the proposed penalty, and reasonable opportunity for the public to comment on the matter, and present evidence in the event a hearing is held.

49. EPA has notified Missouri regarding this proposed action by mailing a copy of this document to the MDNR.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Answer and Request for Hearing

50. Respondent may request a hearing to contest any material fact contained in the Complaint above or to contest the appropriateness of the proposed penalty set forth therein. Such a hearing will be held and conducted in accordance with the Consolidated Rules, a copy of which is enclosed herein.

51. To avoid being found in default, which constitutes an admission of all facts alleged in the Complaint and a waiver of the right to hearing, Respondent must file a written answer and request for hearing within thirty (30) days of service of this Complaint and Notice of Opportunity for Hearing. The answer shall clearly and directly admit, deny, or explain each factual allegation contained in this Complaint with respect to which Respondent has any knowledge, or shall clearly state that Respondent has no knowledge as to particular factual allegations in this Complaint. The answer shall also state (a) the circumstances or arguments which are alleged to constitute the grounds of defense; (b) the facts that Respondent disputes; (c) the basis for opposing any proposed relief; and (d) whether a hearing is requested. Said answer shall be filed with the following:

Regional Hearing Clerk
United States Environmental Protection Agency, Region 7
901 North 5th Street
Kansas City, Kansas 66101.

52. Failure to admit, deny, or explain any material factual allegation in this Complaint constitutes an admission of the allegation.

53. A hearing upon the issues raised by this Complaint and the answer may be held if requested by Respondent in the answer. If Respondent does not request a hearing, the Presiding Officer may hold a hearing if issues appropriate for adjudication are raised in the answer.

54. In any hearing on the proposed penalty for this Complaint, members of the public to whom EPA is obligated to give notice of this proposed penalty action, will have the right, under Section 309(g)(4)(B) of the CWA, 33 U.S.C. § 1319(g)(4)(B), to be heard and present evidence on the merits of the proposed CWA penalty assessment. If no hearing is held, EPA will issue a Final Order Assessing Administrative Penalties pursuant to the CWA, and only members of the public who submitted timely comments on the proposed penalty assessment will have an additional thirty (30) days to petition to set aside the said Order and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioners' evidence is material and was not considered by EPA in the issuance of the Final Order.

55. If Respondent fails to file a written answer within thirty (30) days of service of this Complaint and Notice of Opportunity for Hearing, Respondent may be found in default. Such default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. A Default Order may thereafter be issued by the Presiding Officer and the civil penalties proposed herein shall become due and payable unless the record clearly demonstrates that the requested relief is inconsistent with the CWA.

Informal Settlement Conference

56. Whether or not Respondent requests a hearing, an informal conference may be requested in order to discuss the facts of this case, the proposed penalty, and the possibility of settlement. To request a settlement conference, please contact:

Sara Hertz Wu
Assistant Regional Counsel
United States Environmental Protection Agency
901 North 5th Street
Kansas City, Kansas 66101
Telephone: 913-551-7316.

57. Please note that a request for informal settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted.

58. EPA encourages all parties against whom a civil penalty is proposed to pursue the possibilities of settlement as a result of informal conference. Any settlement which may be reached as a result of such conference shall be embodied in a written Consent Agreement and Final Order (CA/FO) issued by the Regional Judicial Officer, EPA, Region 7. The issuance of such a CA/FO shall constitute a waiver of Respondent's right to request a hearing on any matter stipulated therein.

59. If Respondent has not filed an answer within the thirty (30) day time period allowed by this Notice, the penalties proposed above may be assessed by the entry of a Default Order.

1/19/10

Date



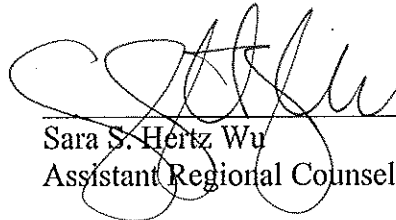
William A. Spratlin

Director

Water, Wetlands and Pesticides Division

1/19/2010

Date



Sara S. Hertz Wu

Assistant Regional Counsel

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Complaint to the Regional Hearing Clerk, United States Environmental Protection Agency, 901 North Fifth Street, Kansas City, Kansas 66101.

I further certify that on the date noted below I sent a copy of the foregoing Order for Compliance by first class certified mail, return receipt requested, to:

Mr. Lindsay Wood
P.O. Box 2515
Lees Summit, Missouri 64063

ATTORNEY FOR RESPONDENT

Mr. Roger Jones
Mid-American Coaches, Inc.
4530 Highway 47
Washington, Missouri 63090-5264

RESPONDENT

Mr. Kevin Mohammadi, Chief
Enforcement Section
Water Pollution Control Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102

11/19/10
Date

