

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

BEFORE THE ADMINISTRATOR

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)	Docket No. CWA 07-2009-0073
)	
MID-AMERICAN COACHES, INC.)	
Washington, Missouri)	ANSWER AND REQUEST FOR
)	HEARING
Respondent,)	
)	
Proceedings under Section 309(g) of the)	
Clean Water Act, 33 U.S.C. § 1319(g))	

**MID-AMERICAN COACHES, INC.'S ANSWER TO COMPLAINT, NOTICE OF
PROPOSED PENALTY AND NOTICE OF OPPORTUNITY FOR HEARING
AND REQUEST FOR HEARING**

Comes now Respondent Mid-American Coaches, Inc., by and through its attorney of record, and answers the Complaint, Notice of Proposed Penalty and Notice of Opportunity for Hearing as follows:

1. In response to paragraph 1 of the Complaint, Respondent admits that this is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g) of the Federal Water Pollution Control Act and that it purports to be 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. Respondent denies that it is liable for any civil penalties.

2. In response to paragraph 2 of the Complaint, Respondent admits that the Complaint serves as notice that EPA believes that Respondent has violated Sections 301 and 402 of the CWA and the regulations promulgated thereunder. Respondent denies that EPA's belief is true.\
3. Respondent admits the allegations contained in paragraph 3 of the Complaint.
4. Respondent admits the allegations contained in paragraph 4 of the Complaint.
5. Respondent admits the allegations contained in paragraph 5 of the Complaint.
6. Paragraph 6 of the Complaint contains purported statements of law to which no response is required. To the extent a response is required, Respondent denies the allegations of paragraph 6 of the Complaint.
7. Paragraph 7 of the Complaint contains purported statements of law to which no response is required. To the extent a response is required, Respondent denies the allegations of paragraph 7 of the Complaint.
8. Paragraph 8 of the Complaint contains purported statements of law to which no response is required. To the extent a response is required, Respondent denies the allegations of paragraph 8 of the Complaint.
9. Paragraph 9 of the Complaint contains purported statements of law to which no response is required. To the extent a response is required, Respondent denies the allegations of paragraph 9 of the Complaint.
10. Respondent admits that EPA promulgated the regulations codified at 40 C.F.R. § 122. The remainder of Paragraph 10 of the Complaint contains purported statements of law to which no response is required. To the extent a response is

- required, Respondent denies the allegations of paragraph 10 of the Complaint.
11. Paragraph 11 of the Complaint contains purported statements of law to which no response is required. To the extent a response is required, Respondent denies the allegations of paragraph 11 of the Complaint.
 12. Respondent admits the allegations contained in paragraph 12 of the Complaint.
 13. Respondent admits the allegations contained in paragraph 13 of the Complaint.
 14. Respondent admits the allegations contained in paragraph 14 of the Complaint.
 15. Respondent admits the allegations contained in paragraph 15 of the Complaint.
 16. Respondent admits the allegations contained in paragraph 16 of the Complaint.
 17. Respondent admits the allegations contained in paragraph 17 of the Complaint.
 18. Respondent admits the allegations contained in the first sentence of paragraph 18 of the Complaint. Respondent denies that the unnamed tributary of Busch Creek or Busch Creek are waters of the United States.
 19. Respondent denies the allegations contained in paragraph 19 of the Complaint.
 20. Respondent admits the allegations contained in paragraph 20 of the Complaint.
 21. Respondent admits the allegations contained in paragraph 21 of the Complaint.
 22. Paragraph 22 of the Complaint contains purported statements of law to which no response is required. To the extent a response is required, Respondent denies the allegations of paragraph 22 of the Complaint.
 23. In response to the allegations contained in paragraph 23 of the Complaint, Respondent admits that EPA performed an inspection at Respondent's facility, including observation of the WWTP and sampling of the waste stream.

24. The responses to the allegations contained in paragraphs 1-23 are incorporated herein by this reference.
25. Respondent admits the allegations contained in paragraphs 25 and 26 of the Complaint.
26. Respondent denies the allegations contained in paragraph 27 of the Complaint.
27. The responses to the allegations contained in paragraphs 1-23 are incorporated herein by this reference.
28. Respondent denies the allegations contained in paragraph 29 of the Complaint and refers to the NPDES Permit for the full limitations, terms and conditions of such permit.
29. Respondent admits that the Discharge Monitoring Reports contain the readings set forth in paragraph 30 of the Complaint; Respondent denies all other allegations contained in that paragraph.
30. Respondent admits that the Discharge Monitoring Reports contain the readings set forth in paragraph 31 of the Complaint; Respondent denies all other allegations contained in that paragraph.
31. Respondent admits that the Discharge Monitoring Reports contain the readings set forth in paragraph 32 of the Complaint; Respondent denies all other allegations contained in that paragraph.
32. Respondent admits that the Discharge Monitoring Reports contain the readings set forth in paragraph 33 of the Complaint; Respondent denies all other allegations contained in that paragraph.

33. Respondent admits that the Discharge Monitoring Reports contain the readings set forth in paragraph 34 of the Complaint; Respondent denies all other allegations contained in that paragraph.
34. Respondent admits that the Discharge Monitoring Reports contain the readings set forth in paragraph 35 of the Complaint; Respondent denies all other allegations contained in that paragraph.
35. Respondent admits that the Discharge Monitoring Reports contain the reading set forth in paragraph 36 of the Complaint; Respondent denies all other allegations contained in that paragraph.
36. Respondent denies the allegations contained in paragraph 37 of the Complaint.
37. The responses to the allegations contained in paragraphs 1-23 are incorporated herein by this reference.
38. Respondent admits the allegations contained in paragraph 39 of the Complaint.
39. Respondent denies the allegations contained in paragraph 40 of the Complaint.
40. The responses to the allegations contained in paragraphs 1-23 are incorporated herein by this reference.
41. Respondent admits the allegations contained in paragraph 42 of the Complaint.
42. Respondent denies the allegations contained in paragraph 43 of the Complaint.
43. The responses to the allegations contained in paragraphs 1-23 are incorporated herein by this reference.
44. Respondent admits the allegations contained in the first two sentences of paragraph 45 of the Complaint. The third and fourth sentences of paragraph 45 of

the Complaint purports to summarize portions of the referenced state regulation which speaks for itself; to the extent a response is required to these sentences, Respondent denies the allegations. Respondent denies the allegations contained in the remainder of paragraph 45 of the Complaint.

45. Respondent denies the allegations contained in paragraph 46 of the Complaint.
46. Paragraph 47 of the Complaint purports to summarize portions of the CWA and other federal laws. To the extent a response is required, Respondent denies the allegations contained in paragraph 47 of the Complaint.
47. Respondent admits that EPA Region 7 proposes to issue a Final Order Assessing an Administrative Penalty as stated in paragraph 48 of the Complaint, but denies that any such Final Order is appropriate or should be issued. Respondent further denies that the proposed penalty is appropriate in the circumstances.
48. Respondent denies the allegations contained in paragraph 49 of the Complaint.
49. Respondent denies information or belief sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 50 of the Complaint and, therefore, denies same.
50. Respondent admits the allegations contained in paragraph 51 of the Complaint.
51. Respondent denies information or belief sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 52 of the Complaint and, therefore, denies same.
52. Respondent denies each and every allegation contained in the Complaint that is not explicitly admitted herein.

ADDITIONAL DEFENSES

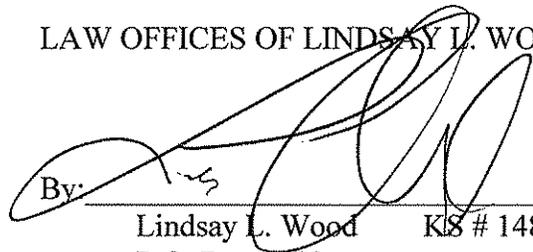
- 53. The Complaint fails to state a claim upon which relief can be granted.
- 54. Count IV of the Complaint is barred by the applicable statute of limitations, in that the cause of action accrued on May 21, 2004, more than five years prior to the filing of the Complaint.
- 55. The penalties proposed in the Complaint do not accurately reflect the proper application of the Interim Clean Water Act Settlement Penalty Policy, issued March 1, 1995 or the statutory factors set forth in the Clean Water Act.

REQUEST FOR HEARING

Respondent hereby requests a hearing on the matters set forth in the Complaint.

Respectfully submitted,

LAW OFFICES OF LINDSAY L. WOOD

By: 
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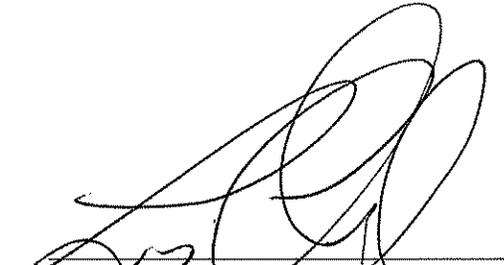
CERTIFICATE OF SERVICE

I certify that on this 31st day of July, 2009, I hand delivered the original and one copy of the foregoing document to the Regional Hearing Clerk, United States Environmental Protection

Agency, 901 North Fifth Street, Kansas City, Kansas 66101.

I further certify that on the above-mentioned date, I served a copy of the foregoing document by first class mail, postage prepaid, addressed to:

Ms. Sara S. Hertz
Assistant Regional Counsel
United States Environmental Protection Agency
901 North Fifth Street
Kansas City, Kansas 66101



Attorney for Respondent
Mid-American Coaches, Inc.