

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7

901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	Docket No. CWA 07-2009-0073
)	
MID-AMERICAN COACHES, INC.)	
)	
WASHINGTON, MISSOURI)	CONSENT AGREEMENT AND
)	FINAL ORDER
)	
)	
Respondent,)	
)	
Proceedings under Section 309(g) of the)	
Clean Water Act, 33 U.S.C. § 1319(g))	

I. PRELIMINARY STATEMENT

The proceeding was initiated on or about May 26, 2009, when the United States Environmental Protection Agency, Region 7 (Complainant or EPA) issued a Complaint, Notice of Proposed Penalty, and Notice of Opportunity for Hearing (Complaint) to Mid-American Coaches, Inc. (Respondent or Mid-American). Pursuant to Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g), the Complainant sought civil penalties for alleged violations of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342. On January 19, 2010, EPA filed an Unopposed Motion to Amend the Complaint and an Amended Complaint. The Motion was granted on February 2, 2010.

The Complainant and Respondent subsequently entered into negotiations in an attempt to settle the allegations contained in the Complaint and Amended Complaint. This Consent Agreement and Final Order (CAFO) is the result of such negotiations and resolves all issues relating to the administrative claims arising from the Complaint and the Amended Complaint.

II. CONSENT AGREEMENT

1. Respondent and EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.

2. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CAFO.

3. Respondent neither admits nor denies the factual allegations set forth in the Complaint and the Amended Complaint.

4. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the Final Order portion of this CAFO.

5. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and agree to bear their own costs and attorney's fees incurred as a result of this action.

6. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

7. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

8. This CAFO addresses all civil and administrative claims for the CWA violations identified in the Complaint and the Amended Complaint. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA or any other applicable law.

9. Respondent agrees that, in settlement of the claims alleged in this CAFO, Respondent shall pay a penalty of Thirty Thousand Dollars and No Cents (\$30,000.00) as set forth in Paragraph 1 of the Final Order.

10. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.

III. FINAL ORDER

Payment Procedures

Pursuant to the authority of Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and according to terms of this CAFO, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of Thirty Thousand Dollars and No Cents (\$30,000.00), plus interest of Four Hundred and One Dollars and Thirty Cents (\$401.30) over a period of three (3) years. The total civil penalty shall be paid in six installments. The first payment of Five Thousand Dollars and No Cents (\$5,000) shall be paid within 30 days of the effective date of this CAFO. The second payment of \$5,000.00, plus interest of Eighty Dollars and Twenty-Six Cents (\$80.26), shall be paid no later than one hundred and eighty (180) days from the date of the first payment. Each payment of \$5,000.00, plus interest of \$80.26, shall be paid no later than 180 days from the previous payment. The sixth and final payment of \$5,000.00, plus interest of \$80.26, shall be due no later than June 30, 2012.

2. Interest on any late payment will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on any overdue amount from the due date through the date of payment. Failure to pay the civil penalty when due may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs and interest.

3. Payment of the penalty shall be by cashier or certified check made payable to the "United States Treasury" and remitted to:

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

This payment shall reference docket number CWA-07-2009-0073.

Copies of the check shall be mailed to:

Sara Hertz Wu
Assistant Regional Counsel
U.S. Environmental Protection Agency – Region 7
901 North 5th Street
Kansas City, Kansas 66101

and to

Kathy Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 7
901 North 5th Street
Kansas City, Kansas 66101.

4. No portion of the civil penalty or interest paid by Respondent pursuant to

the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

Parties Bound

5. This Final Order portion of this CAFO shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

General Provisions

6. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and to seek penalties against Respondent or to seek any other remedy allowed by law.

7. Complainant reserves the right to take enforcement action against Respondent for any future violations of the CWA and its implementing regulations and to enforce the terms and conditions of this CAFO.

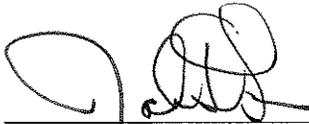
8. This Order shall be entered and become effective only after the conclusion of the period of public notice and comment required pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

9. Respondent and Complainant shall bear their respective costs and attorney's fees.

10. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

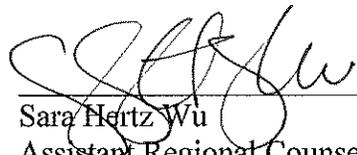
COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION
AGENCY

2/12/10
Date



s. William A. Spratlin
Director
Water, Wetlands and Pesticides Division

2/12/10
Date



Sara Hertz Wu
Assistant Regional Counsel

RESPONDENT:
MID-AMERICAN COACHES, INC.

2/12/10
Date

Roger L. Jones

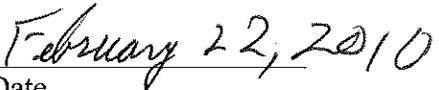
Name (Print) ROGER L. JONES

Title PRESIDENT

IT IS SO ORDERED. This Final Order shall become effective immediately.



Robert Patrick
Regional Judicial Officer



Date

IN THE MATTER OF Mid-American Coaches, Inc, Respondents
Docket No. CWA-07-2009-0073

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Sara Hertz Wu
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Mr. Lindsay Wood, Esq.
P.O. Box 2515
Lee's Summit, Missouri 64063

Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20005

and

The Honorable Spencer T. Nissen
Administrative Law Judge
U. S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20005

IN THE MATTER OF Mid-American Coaches, Inc, Respondents
Docket No. CWA-07-2009-0073

Copy by First Class Mail to:

Kevin Mohammadi, Chief
Environmental Section, Bureau of Water
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65101-0176

and

Mike Struckhoff
St. Louis Regional Office
Missouri Department of Natural Resources
7545 S. Lindbergh, Suite 210
St. Louis, Missouri 63125

Dated: 2/23/10


Kathy Robinson
Hearing Clerk, Region 7