

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

STARBOUND, LLC

Seattle, Washington

Respondent.

DOCKET NO. CWA-10-2024-0105

**CONSENT AGREEMENT**Proceedings Under Section 309(g) of the Clean  
Water Act, 33 U.S.C. § 1319(g)**I. STATUTORY AUTHORITY**

1.1. This Consent Agreement is entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g).

1.2. Pursuant to CWA Section 309(g)(1)(A), 33 U.S.C. § 1319(g)(1)(A), EPA is authorized to assess a civil penalty against any person that has violated CWA Section 301, 33 U.S.C. § 1311, and/or any permit condition or limitation in a permit issued under CWA Section 402, 33 U.S.C. § 1342.

1.3. CWA Section 309(g)(2)(B), 33 U.S.C. § 1319(g)(2)(B), authorizes the administrative assessment of Class II civil penalties in an amount not to exceed \$10,000 per day for each day during which the violation continues, up to a maximum penalty of \$125,000. Pursuant to 40 C.F.R. Part 19, the administrative assessment of Class II civil penalties may not exceed \$26,685 per day for each day during which the violation continues, up to a maximum penalty of \$333,552. *See also* 88 Fed. Reg. 89,309 (December 27, 2023) (2024 Civil Monetary Penalty Inflation Adjustment).

1.4. Pursuant to CWA Section 309(g)(1)(A) and (g)(2)(B), 33 U.S.C. § 1319(g)(1)(A) and (g)(2)(B), and in accordance with Section 22.18 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues,

and Starbound, LLC (Respondent) agrees to issuance of, the Final Order attached to this Consent Agreement.

## **II. PRELIMINARY STATEMENT**

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), execution of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to CWA Section 309(g), 33 U.S.C. § 1319(g), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 (Complainant).

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CWA, together with the specific provisions of the CWA and implementing regulations that Respondent is alleged to have violated.

## **III. ALLEGATIONS**

### **Statutory and Regulatory Framework**

3.1. As provided in CWA Section 101(a), 33 U.S.C. § 1251(a), the objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

3.2. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person from any point source into waters of the United States except, *inter alia*, as authorized by a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342.

3.3. CWA Section 502(12), 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”

3.4. CWA Section 502(6), 33 U.S.C. § 1362(6), defines a “pollutant” to include, *inter alia*, dredged spoil, rock, sand, chemical wastes, and industrial wastes.

3.5. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” to mean, *inter alia*, any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, vessel, or other floating craft from which pollutants are or may be discharged.

3.6. CWA Section 502(7) defines “navigable waters” as “waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).

3.7. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to navigable waters.

3.8. EPA directly administers the NPDES permitting program authorizing the discharge of seafood processing wastes and other designated wastewaters in federal waters off the coasts of Washington, Oregon, and Alaska.

3.9. On March 1, 2019, EPA issued the Authorization to Discharge Under the NPDES for Offshore Seafood Processors Discharging in Federal Waters Off the Coast of Washington and Oregon pursuant to Section 402 of the CWA, 33 U.S.C. § 1342 (NPDES Permit No. WAG520000) (Washington and Oregon Permit). The Washington and Oregon Permit became effective on May 1, 2019. The Washington and Oregon Permit authorizes, subject to its terms and conditions, the discharge of seafood processing wastes and other designated wastewaters.

3.10. On December 4, 2009, EPA issued the Authorization to Discharge Under the NPDES for Offshore Seafood Processors Discharging in Federal Waters Off the Coast of Alaska pursuant to Section 402 of the CWA, 33 U.S.C. § 1342 (NPDES Permit No. AKG524000). This permit became effective on March 1, 2010 (2010 Alaska Permit), and then was reissued on July 17, 2019 (2019 Alaska Permit). The 2019 Alaska Permit was modified effective June 2, 2021.

The 2010 and 2019 Alaska Permits authorize, subject to their terms and conditions, the discharge of seafood processing wastes and other designated wastewaters.

### **General Allegations**

3.11. Respondent is a corporation, and is therefore a “person” under CWA Section 502(5), 33 U.S.C. § 1362(5).

3.12. At all times relevant to this action, Respondent Starbound, LLC owned a fishing vessel named Starbound, U.S. Coast Guard Number 944685 (the “Facility”), which operated within federal waters. Off the coast of Washington and Oregon, the Facility caught and processed hake. Off the coast of Alaska, the Facility caught and processed pollock and pacific cod. The Facility had a meal plant onboard to capture and process fish residue (e.g., skin, bones, and heads). The waste was typically cooked and dried prior to grinding. As part of the cooking process, the Facility generated and discharged gelatinous waste, known as stickwater. In total, the Facility had 15 discharge points, with 6 of those discharge points accompanied by grinder pumps that are designed to grind seafood waste to 0.5 inches or less.

3.13. The Facility discharged wastewater, including seafood processing waste, that contained “pollutants” within the meaning of Section 502(6) and (12) of the CWA, 33 U.S.C. § 1362(6) and (12).

3.14. The Facility is a vessel or other floating craft and is therefore a “point source” as defined at CWA Section 502(14), 33 U.S.C. § 1362(14).

3.15. The federal waters off the coasts of Washington, Oregon, and Alaska are part of the “territorial seas” and subject to the ebb and flow of the tide and are therefore “navigable waters” under Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

3.16. Respondent discharged pollutants from a point source into waters of the United States, within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

3.17. Respondent submitted a Notice of Intent (NOI) for coverage under the Washington and Oregon Permit on April 24, 2019.

3.18. Respondent submitted a NOI for coverage under the Alaska Permit on January 22, 2010; on August 29, 2014; and on October 16, 2019.

3.19. At all times relevant to this action, Respondent was authorized to discharge seafood processing wastes and other designated wastewaters from the Facility in accordance with the Oregon and Washington Permit and the Alaska Permit.

### **Washington and Oregon Permit Violations**

3.20. As described below, EPA alleges that, after obtaining coverage under the Washington and Oregon Permit, Respondent violated certain terms and conditions of the Washington and Oregon Permit and therefore violated CWA Section 301, 33 U.S.C. § 1311. Violations of the Washington and Oregon Permit are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

#### Violation 1 – Discharge Exceedances

3.21. Section V.A.3 of the Washington and Oregon Permit prohibits the Respondent from discharging a volume or weight of seafood processing waste residues on a daily or annual basis that exceeds the amount projected in their NOI.

3.22. EPA alleges Respondent violated Section V.A.3 of the Washington and Oregon Permit by exceeding the annual weight of seafood processing waste residue listed on their NOI (9,240,000 pounds) twice: 9,343,749 pounds in 2019 and 9,503,552 pounds in 2020.

#### Violation 2 – Failure to Update NOI to Reflect Material Change

3.23. Section IV.A.3 of the Washington and Oregon Permit requires the Respondent to submit to the EPA an updated and/or amended NOI when any material change occurs, which may include, but is not limited to, increases in the amount of pollutants above presently authorized levels.

3.24. Section VI.B.4.d of the Washington and Oregon Permit requires the Respondent to submit updated or amended NOIs with the Annual Report.

3.25. EPA alleges that Respondent violated Sections IV.A.3 and VI.B.4.d of the Washington and Oregon Permit by failing to submit an updated NOI and failing to include the updated NOI in the Annual Report when the annual weight of seafood processing waste residue discharge exceeded the authorized levels in 2019 and 2020.

Violation 3 – Failure to Conduct a Pre-Operational Check of Outfall System

3.26. Section V.B.4 of the Washington and Oregon Permit requires, in part, that Respondent must discharge seafood processing wastes to or below the sea surface. A pre-operational check of the outfall system must be performed at the beginning of each processing season to ensure that the outfall system is operable. Logs of this pre-operational check must be kept on-board the vessel until the end of the calendar year and then maintained at the business office for five years thereafter.

3.27. EPA alleges Respondent violated Section V.B.4 of the Washington and Oregon Permit by failing to conduct and maintain a log of the pre-operational check of the outfall system at the beginning of the 2021 processing season.

Violation 4 – Failure to Take Required Pictures

3.28. Section V.B.5 of the Washington and Oregon Permit requires that Respondent take at least four pictures quarterly of each outfall while processing is occurring. Each picture must be labelled with the date, time, name of person taking the picture, and a description of what the picture represents.

3.29. EPA alleges that Respondent violated Section V.B.5 of the Washington and Oregon Permit by failing to take at least four pictures of each outfall location while processing during Quarter 4 of 2021.

Violation 5 – Failure to Take and Analyze Wastewater and Stickwater Samples

3.30. Section V.B.7.a of the Washington and Oregon Permit requires Respondent to collect representative effluent samples during each quarter of the calendar year and analyze the samples for the parameters listed in Table 1.

3.31. Section V.B.7.b of the Washington and Oregon Permit requires the Respondent to collect and analyze one representative sample of stickwater per calendar year of operation for the parameters listed in Table 1.

3.32. EPA alleges Respondent violated Sections V.B.7.a of the Washington and Oregon Permit by failing to collect representative effluent samples and analyze the samples for the parameters listed in Table 1 during Quarter 2 of 2020; and Quarter 2, Quarter 3, and Quarter 4 of 2021.

3.33. EPA alleges Respondent violated Sections V.B.7.b of the Washington and Oregon Permit by failing to collect and analyze an annual stickwater sample for the parameters listed in Table 1 in 2021.

Violation 6 – Failure to Submit Timely Quarterly Discharge Monitoring Reports

3.34. Section V.B.7.c of the Washington and Oregon Permit requires Respondent to report effluent monitoring results in a Discharge Monitoring Report (DMR) via NetDMR according to the requirements described in Section VIII.B.2. According to Section V.B.7.f of the Washington and Oregon Permit, if the Respondent does not discharge during a quarter, the Respondent must still submit a DMR and note that no discharge occurred.

3.35. Section VIII.B.a of the Washington and Oregon Permit requires the Respondent to submit quarterly monitoring data required in Section V.B.7 electronically to EPA according to the following schedule: Quarter 1 must be submitted by May 20, Quarter 2 must be submitted by August 20, Quarter 3 must be submitted by November 20, and Quarter 4 must be submitted by February 20.

3.36. EPA alleges Respondent violated Sections V.B.7.f and VIII.B.a of the Washington and Oregon Permit by failing to timely submit quarterly DMRs for Quarter 3 and Quarter 4 of 2019; Quarter 1, Quarter 3, and Quarter 4 of 2020; and for Quarter 1 of 2021.

3.37. Further, EPA alleges Respondent violated Sections V.B.7.c and VIII.B.a of the Washington and Oregon Permit by failing to submit quarterly DMRs at all for Quarter 2 of 2020 and for Quarter 2, Quarter 3, and Quarter 4 of 2021.

#### Violation 7 – Failure to Timely Submit Annual Reports

3.38. Section VI.B of the Washington and Oregon Permit requires the Respondent to prepare and submit a complete and accurate Annual Report to the EPA, the Washington Department of Ecology, and the Oregon Department of Environmental Quality by February 14<sup>th</sup> of the year following each year of operation and discharge under the Permit. In addition, when operating within the boundaries of the Olympic Coast National Marine Sanctuary, the Quileute Tribe’s usual and accustomed fishing area boundaries, and/or the Quinault Indian Nation’s usual and accustomed fishing area boundaries, Section VI.B of the Washington and Oregon Permit requires the Respondent to submit the Annual Report by February 14<sup>th</sup> of the year following each year of operation and discharge under the Permit to the Olympic Coast National Marine Sanctuary, the Quileute Indian Tribe, and/or the Quinault Tribe, respectively.

3.39. EPA alleges that Respondent submitted the 2020 Annual Report to EPA in December of 2021. EPA therefore alleges that Respondent violated Section VI.B by failing to timely submit the 2020 Annual Report to EPA.

3.40. EPA alleges that Respondent submitted the 2019 and 2020 Annual Reports to the Oregon Department of Environmental Quality in December of 2021 and to the Washington Department of Ecology in August of 2022. EPA therefore alleges that Respondent violated Section VI.B of the Washington and Oregon General Permit by failing to timely submit the 2019



and 2020 Annual Reports to the Oregon Department of Environmental Quality and the Washington Department of Ecology.

3.41. EPA alleges that Respondent operated within the boundaries of the Olympic Coast National Marine Sanctuary in 2019. EPA alleges that Respondent submitted the 2019 Annual Report to the Olympic Coast National Marine Sanctuary in August of 2022. EPA therefore alleges that Respondent violated Section VI.B.5 of the Oregon and Washington General Permit by failing to timely submit the 2019 Annual Report to the Olympic Coast National Marine Sanctuary.

3.42. EPA alleges that Respondent operated within the boundaries of the Quileute Indian Tribe's and the Quinault Indian Nation's usual and accustomed fishing area boundaries in 2019 and 2020. EPA alleges that Respondent submitted the 2019 and 2020 Annual Reports to the Quileute Indian Tribe and the Quinault Indian Nation in August of 2022. EPA therefore alleges that Respondent violated Section VI.B.5 of the Washington and Oregon General Permit by failing to timely submit the 2019 and 2020 Annual Reports to the Quileute Indian Tribe and the Quinault Indian Nation.

#### Violation 8 – Failure to Include Noncompliance Report in Annual Reports

3.43. Section VI.B.2.b of the Washington and Oregon Permit requires Respondent to provide in the Annual Report a summary of noncompliance, including the reasons for such noncompliance, corrective actions, and steps taken to prevent future noncompliance events.

3.44. EPA alleges that Respondent violated Section VI.B.2.b of the Washington and Oregon General Permit by failing to include a summary of noncompliance in the 2019 and 2020 Annual Reports.

#### Violation 9 – Failure to Include Production and Discharge Information in Annual Reports

3.45. Section VI.B.2.c of the Washington and Oregon Permit requires Respondent to provide in the Annual Report a summary of the previous year's production and discharge.

3.46. Section VI.B.2.c.4 requires the summary to include the type and amount (pounds) of discharged seafood processing waste residues (raw product minus finished product) per month. The summary must also include monthly estimates of both stickwater and non-stickwater seafood processing waste, as well as the maximum daily discharge of seafood processing waste (including stickwater plus all other types of seafood processing waste) on a monthly basis.

3.47. Section VI.B.2.c.7 requires the summary to include an estimate or measurement of the volume lost to the atmosphere through water vapor, for secondary byproducts production.

3.48. EPA alleges Respondent violated Section VI.B.2.c.4 of the Washington and Oregon Permit by failing to include the maximum daily discharge of seafood processing waste on a monthly basis in the 2019 and 2020 Annual Reports.

3.49. EPA alleges Respondent violated Section VI.B.2.c.4 of the Washington and Oregon Permit by failing to include the monthly quantities of stickwater discharge in the 2019, 2020, and 2021 Annual Reports.

3.50. EPA alleges Respondent violated Section VI.B.2.c.7 of the Washington and Oregon Permit by failing to include the volume lost to the atmosphere via water vapor in the 2021 Annual Report.

#### Violation 10 – Failure to Report Location Data

3.51. Section VI.B.2.d. of the Washington and Oregon Permit requires Respondent to provide area map(s) in the Annual Report that show at least one daily location of the vessel while discharging. The data must be provided in a table with the discharge dates and location coordinates in degrees, minutes, and seconds.

3.52. EPA alleges Respondent violated Section VI.B.2.d of the Washington and Oregon Permit by failing to provide in the 2021 Annual Report at least one daily location of the vessel while discharging on September 30, 2021.

### Violation 11 – Failure to Report Daily Distance Data

3.53. Section VI.B.2.e of the Washington and Oregon Permit requires the Respondent to provide in the Annual Report the minimum and average distance traveled by the vessel per day during each month of discharge.

3.54. EPA alleges Respondent violated Section VI.B.2.e of the Washington and Oregon Permit by failing to provide the minimum and average distance traveled daily by the vessel during each month of discharge in the 2021 Annual Report.

### **Alaska Permit Violations**

3.55. As described below, EPA alleges that, after obtaining coverage under the Alaska Permit, Respondent violated certain terms and conditions of the Alaska Permit and therefore violated CWA Section 301, 33 U.S.C. § 1311. Violations of the Alaska Permit are enforceable under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

### Violation 12 – Failure to Submit Timely Annual Reports

3.56. Section VI.B.1 of the 2019 Alaska Permit requires Respondent to prepare and submit a complete, accurate, and timely annual report of incidents of noncompliance, production, discharges, and process changes to EPA.

3.57. Section VI.B.3 of the 2019 Alaska Permit requires Respondent to submit its annual report to EPA by February 14<sup>th</sup> of the year following each year of operation and discharge under this Permit.

3.58. EPA alleges Respondent violated Sections VI.B.1 and VI.B.3 of the 2019 Alaska Permit by submitting the 2019 and 2020 Annual Reports to EPA on August 22, 2022, which is after the required deadlines for each report.

### Violation 13 – Failure to Take Representative Picture

3.59. Section V.B.4 of the 2019 Alaska Permit requires Respondent to take at least one picture quarterly while processing is occurring. Each quarterly picture must capture the outfall's

receiving water; processing waste (if any) on the sea surface behind the vessel; interactions with seabirds or marine mammals (if any); and, if seafood waste grinding is required, effluent that shows the size of residues.

3.60. EPA alleges that Respondent was processing during Quarter 2 of 2021. EPA further alleges that Respondent violated Section V.B.4 of the 2019 Alaska Permit by failing to take at least one picture during Quarter 2 of 2021.

#### Violation 14 – Failure to Report Stickwater Discharge

3.61. Section VI.B.2.d(6) of the 2019 Alaska Permit requires the Respondent to provide in the Annual Report a summary of production and discharge data from the previous year, including the total quantity of stickwater discharged per month.

3.62. EPA alleges Respondent violated Section VI.B.2.d(6) of the 2019 Alaska Permit by failing to provide the total quantity of stickwater discharged per month in the 2021 Annual Report.

### **IV. TERMS OF SETTLEMENT**

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by CWA Section 309(g)(3), 33 U.S.C. § 1319(g)(3), EPA has taken into account “the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require.” After considering all of these factors as they apply to this case, EPA has determined that an appropriate penalty to settle this action is \$168,000 (“Assessed Penalty”).

4.4. Respondent consents to the assessment of the Assessed Penalty set forth in Paragraph 4.3 and agrees to pay the total Assessed Penalty within 30 days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (“Filing Date”).

4.5. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

4.6. When making a payment, Respondent shall:

4.6.1. Identify every payment with Respondent’s name and the docket number of this Agreement, CWA-10-2024-0105,

4.6.2. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of payment electronically to the following person(s):

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 155  
Seattle, Washington 98101  
[R10\\_RHC@epa.gov](mailto:R10_RHC@epa.gov)

Emily Siangkam  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 155  
Seattle, Washington 98101  
[Siangkam.Emily@epa.gov](mailto:Siangkam.Emily@epa.gov)

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Via electronic mail to:  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and

any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

4.7. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

4.7.1. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1319(g)(9). The rate of interest is the IRS standard underpayment rate.

4.7.2. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.

4.7.3. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

4.8. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

4.8.1. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

4.8.2. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

4.8.3. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.

4.8.4. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.9. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

4.10. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

4.11. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts

paid for “restitution or remediation of property” or to come “into compliance with the law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

4.11.1. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.

4.11.2. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

4.11.3. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at [henderson.jessica@epa.gov](mailto:henderson.jessica@epa.gov) within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

4.11.4. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

4.12. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.



4.13. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violations alleged in Part III above.

4.14. Except as described in Subparagraph 4.7.2, above, each party shall bear its own fees and costs in bringing or defending this action.

4.15. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in the Consent Agreement and to appeal the Final Order.

4.16. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.17. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

05/09/2024

FOR RESPONDENT:



Chris Swasand, Manager  
Starbound, LLC

FOR COMPLAINANT:

---

Edward J. Kowalski  
Director  
Enforcement and Compliance Assurance Division  
EPA Region 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

STARBOUND, LLC

Seattle, Washington

Respondent.

DOCKET NO. CWA-10-2024-0105

**FINAL ORDER**

Proceedings Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g)

1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of the U.S. Environmental Protection Agency (EPA) Region 10, who has in turn delegated this authority to the Regional Judicial Officer in EPA Region 10.

2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties pursuant to the Clean Water Act (CWA) for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

4. This Final Order shall become effective upon filing.

IT IS SO ORDERED.

---

RICHARD MEDNICK  
Regional Judicial Officer  
EPA Region 10

