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EPA -- REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Estell Subdivison, Lot 2  
Public Water System  
(AK# 2216902),

Respondent.

Docket No. SDWA-10-2014-0137

**COMPLAINANT'S RESPONSE TO  
ORDER TO SHOW CAUSE**

**COMPLAINANT'S RESPONSE**

The United States Environmental Protection Agency ("EPA" or "Complainant") respectfully submits this response to the Order to Show Cause ("Order") in this action directing Complainant to submit an affidavit of service from the process service company which served Trudy Tush, owner of the Estell Subdivision, Lot 2 ("Respondent") on May 15, 2015 with the Complaint in this action.

Complainant attempted to contact Ms. Tush over the course of several months, and was successful in discussing the pendency of this action with her on several occasions. Complainant made multiple attempts to convey information related to this action by certified mail sent to Ms. Tush's address, which was returned undelivered.

Under the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, 40 C.F.R. § 22.5(b)(i), a complainant must serve the complaint on a respondent or a representative authorized to receive on their behalf. Service may "be made personally, by certified mail

with return receipt requested, or by any reliable commercial delivery service that provides written verification of service.”

On January 20, 2015, Complainant issued the Complaint to Ms. Tush. The Complaint was returned as unclaimed on February 14, 2015. Complainant then hired a process service company to serve the Complaint. The process server made “numerous attempts to locate Ms. Tush at her residence and work location and by phone” and was ultimately “able to speak with her on the phone.” *See* Return of Service, Exhibit A. The process server identified herself and the nature of the documents she was attempting to serve upon Ms. Tush, who instructed the process server to “tape them on her office door and she would pick them up later [that day].” *Id.* Per Ms. Tush’s instruction, the process server did so. This service occurred on May 1, 2015.

In accordance with the Order, Complainant submits as Exhibit A the Return of Service affidavit provided to EPA by the process service company, which outlines the process server’s diligent inquiry and agreement with Respondent upon the method of service, which she then executed.

Respectfully Submitted this 9 day of March, 2017.



William M. McLaren  
Assistant Regional Counsel  
U.S. EPA Region 10  
Suite 900, Mail Stop ORC-113  
1200 Sixth Avenue  
Seattle, Washington 98101

## EXHIBIT A

IN THE U.S.E.P.A. COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT, AT REGION 10

ITMO: ESTELL SUBDIVISION LOT 2 PUBLI WATER  
SYSTEM (AK# 216902)

-VS-

Plaintiff(s)

Defendant(s)

RETURN OF SERVICE

Case No: SDWA-10-2014-0137


I certify that on Friday, May 1, 2015 at 8:45 AM I served the following documents  
COMPLAINT, NOTICE AND OPPORTUNITY FOR HEARING

on the therein named TRUDY TUSH

at 1117 CHUGACH WAY in Anchorage, Alaska by leaving a true and correct copy with  
TRUDY TUSH, BY POSTING DOCUMENTS SECURELY TO THE FRONT DOOR PER MS. TUSH'S SPECIFIC  
INSTRUCTION. AFTER NUMEROUS ATTEMPTS TO LOCATE MS. TUSH AT HER RESIDENCE AND WORK LOCATION  
AND BY PHONE, I WAS ABLE TO SPEAK WITH HER ON THE PHONE. I IDENTIFIED MYSELF AND THE NATURE OF  
THE DOCUMENTS AND SHE SPECIFICALLY INSTRUCTED ME TO TAPE THEM ON HER OFFICE DOOR AND SHE  
WOULD PICK THEM UP LATER TODAY.

  
Process Server/ GABBY CLARK

SUBSCRIBED AND SWORN to me this day of Friday, May 1, 2015

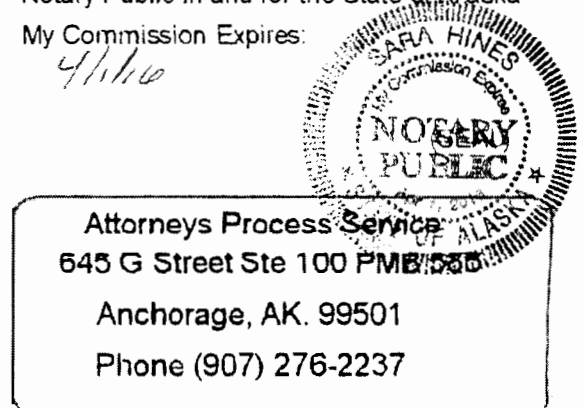
  
Notary Public in and for the State of Alaska  
My Commission Expires: 4/1/16

Attorney: U.S. EPA REGION 10  
1200 6TH AVENUE, SUITE 900  
SEATTLE, WASHINGTON 98101

Attention: ADAM BARON

File No:

Service Fee: \$45.00 RULE 11(a)(1)(ii)  
Mileage: \$20.00 RULE 11(a)(7)  
Endeavor: \$45.00 (3) HRS RSCH & EXT ENDEAVORS  
Endeavor: RULE 11(a)(7)  
Total: \$110.00 (Invoice) No: 92816



**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **Complainant's Response to Order to Show Cause, Docket No.: SDWA-10-2014-0137**, was filed with the Regional Hearing Clerk on the date specified below.

The undersigned certifies that a true and correct copy of the document was delivered to:

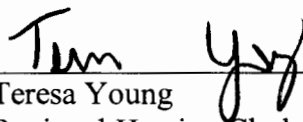
M. Socorro Rodriguez  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
1200 Sixth Avenue Suite 900, M/S ORC-113  
Seattle, WA 98101

William M. McLaren  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
1200 Sixth Avenue Suite 900, M/S ORC-113  
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Trudy Tush  
Owner, Estell Subdivision Lot 2  
1117 Chugach Way  
Anchorage, AK 99503

DATED this 14 day of March, 2017.

  
\_\_\_\_\_  
Teresa Young  
Regional Hearing Clerk  
EPA Region 10