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**BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

NATIONAL PARK SERVICE,
U.S. DEPARTMENT OF THE INTERIOR

Respondent

DENALI NATIONAL PARK AND
PRESERVE

Denali Park, Alaska

Facility

DOCKET NO. SDWA 10-2014-0027

**CONSENT AGREEMENT
AND FINAL ORDER**

The United States Environmental Protection Agency ("EPA") issues the following Consent Agreement & Final Order to resolve alleged violations of the Safe Drinking Water Act by the National Park Service ("Respondent").

I. PRELIMINARY STATEMENT

1.1. Issuance of this Consent Agreement & Final Order ("CAFO") commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective. 40 C.F.R. §§ 22.13(b), 22.43.

1.2. Part II of this CAFO contains statutory and regulatory authorities under which this CAFO is issued.

1.3. Part III of this CAFO contains a statement of the legal and factual allegations against Respondent.

1.4. This Order shall become effective in accordance with Paragraph 5.4.

II. AUTHORITIES

2.1. This CAFO is issued under the authority vested in the Administrator of EPA under Section 1447(b) of the Safe Drinking Water Act (“SDWA” or “Act”), 42 U.S.C. § 300j-6(b).

2.2. The EPA Administrator has delegated the authority to take these actions to the Regional Administrator for EPA, Region 10, who in turn has delegated the authority to the Director of the Office of Compliance and Enforcement, Region 10.

2.3. In accordance with Section 1447(b) of the Act, 42 U.S.C. § 300j-6(b), and the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22 (“Part 22 Rules”), EPA hereby issues, and Respondent hereby agrees to issuance of, the Final Order contained in Part V of this CAFO. Respondent waives its right, under SDWA § 1447(b)(3), 42 U.S.C. § 300j-6(b)(3), to confer with the Administrator and waives its right to a hearing on the issuance of this order.

2.4. Congress authorized EPA to administer the Underground Injection Control (“UIC”) program in states which do not have approved state programs. SDWA § 1422(c); 42 U.S.C. § 300h-1(c).

2.5. The State of Alaska does not have primacy to administer the UIC program for Class V injection wells. Therefore, EPA Region 10 directly implements the Class V UIC program in the State of Alaska. 40 C.F.R. § 147.101.

2.6. Congress authorized EPA to conduct inspections and to request information to determine whether the owner or operator of an injection well has acted or is acting in compliance with the UIC program. SDWA § 1445, 42 U.S.C. § 300j-4.

2.7. EPA can require an owner or operator of an injection well to establish and maintain records, make reports, conduct monitoring, and provide other information as is deemed necessary to determine whether the owner or operator has acted or is acting in compliance with Part C of the SDWA or its implementing regulations. 40 C.F.R. § 144.17.

2.8. The Act authorizes EPA to issue an administrative order whenever the Administrator finds that any person subject to any requirement of any applicable UIC program is violating that requirement. Such an administrative order may require compliance with UIC regulations, assess penalties, or both. SDWA § 1423(a)(2), (c); 42 U.S.C. § 300h-2(a)(2), (c).

2.9. The Act authorizes EPA to issue a penalty order assessing a penalty whenever the Administrator finds that a Federal agency subject to any requirement of any applicable UIC program is violating that requirement. SDWA § 1447(b), 42 U.S.C. § 300j-6(b).

2.10. The Act expressly waives any sovereign immunity otherwise applicable to the United States with respect to any substantive or procedural requirement, including any injunctive relief, administrative order, or civil or administrative penalty. SDWA § 1447(a), 42 U.S.C. § 300j-6(a).

III. ALLEGATIONS

3.1. Respondent is a “Federal agency” and a “person” within the meaning of the Act. SDWA § 1401(11)-(12), 42 U.S.C. § 300f(11)-(12); 40 C.F.R. § 144.3.

3.2. Respondent administers Denali National Park and Preserve in Alaska, pursuant to 16 U.S.C. Chapter 1, Subchapter XXXIX. As part of Respondent’s administrative responsibilities for Denali National Park and Preserve, Respondent owns and operates Building B530, which is a bus maintenance facility located within the park boundaries.

3.3. Fluids from open floor drains in Building B530 were discharged underground through a leach field. At all times relevant to this CAFO, Respondent was the owner and operator of the leach field.

3.4. The leach field was constructed by Respondent in 2009 for the purpose of receiving sanitary waste from the Murie Science and Learning Center. In the spring of 2012 the leach field was modified to receive fluids from Building B530. Fluids from the floor drains in Building B530 were routed through an oil/water separator and then discharged to the leach field.

3.5. Fluids from Building B530 are discharged to a lagoon that is permitted through the National Permit Discharge Elimination System program during summer months. Fluids collected through floor drains located in Building B530 were discharged to the leach field in the spring of 2012 and between September 2012 and March 2013.

3.6. The leach field exists for the purpose of underground injection of fluids and is therefore a Class V injection well. 40 C.F.R. §§ 144.3, 144.6, 144.81, and 146.5.

3.7. A “motor vehicle waste disposal well” (“MVWDW”) is a Class V well that receives or has received fluids from vehicular repair or maintenance, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work. Fluids disposed in these wells may contain organic and inorganic chemicals in concentrations that exceed the maximum contaminant levels (“MCLs”) established by federally mandated primary drinking water regulations. These fluids also may include waste petroleum products and may contain contaminants, such as heavy metals and volatile organic compounds, which

pose risks to human health. 40 C.F.R. § 144.81(16); 64 Fed. Reg. 68546.

3.8. The leach field receives fluids from vehicular repair or maintenance and is therefore a MVWDW. 40 C.F.R. § 144.81(16).

3.9. The UIC regulations prohibit the construction of any MVWDW on or after April 5, 2000 and require that any MVWDW which was operational or under construction on April 5, 2000 be closed by January 1, 2005. 40 C.F.R. §§ 144.87(b)(1)(i) and 40 C.F.R. § 144.88(b).

3.10. As the “owner or operator” of a Class V injection well, Respondent is subject to regulation under the UIC program. 40 C.F.R. § 144.3.

3.11. Underground injection is prohibited, except as authorized by rule or permit under the UIC program. 40 C.F.R. § 144.11.

3.12. Respondent’s injection well overlies the regional aquifer system, and is not within the area of an exempted aquifer. 40 C.F.R. § 146.4.

3.13. The aquifer system underneath Respondent’s injection well is an Underground Source of Drinking Water (“USDW”), within the meaning of 40 C.F.R. § 144.3.

3.14. A “contaminant” is any physical, chemical, biological, or radiological substance or matter in water. SDWA § 1401(6), 42 U.S.C. § 300f(6); 40 C.F.R. § 144.3.

3.15. Injection activity that allows the movement of fluids containing any contaminant into an Underground Source of Drinking Water endangers drinking water sources and is prohibited if the presence of that contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health of persons. 42 U.S.C. § 300h(d)(2) and 40 C.F.R. §§ 144.12(a), 144.82(a)(1).

3.16. Respondent's injection well disposes of untreated fluids collected through open floor drains located in Building B530.

3.17. Contaminants that enter the injection well, such as through bus maintenance activities, would be discharged into an Underground Source of Drinking Water.

3.18. On April 24, 2013, EPA sent Respondent a Notice of Violation for the unauthorized operation and construction of the MVWDW.

Count 1: Endangerment of an Underground Source of Drinking Water

3.19. Motor vehicle fluids may contain contaminants, such as benzene, toluene, ethylbenzene, xylenes, cadmium, chromium, and lead, in concentrations which exceed Maximum Contaminant Levels (MCLs), as established in the primary drinking water regulations under 40 C.F.R. Part 141.

3.20. Motor vehicle fluids and/or other contaminants may cause a violation of primary drinking water regulations or may otherwise adversely affect the health of persons if allowed to move into an Underground Source of Drinking Water.

3.21. Respondent violated 40 C.F.R. §§ 144.12(a) and 144.82(a)(1) by owning, operating or maintaining a Class V injection well which, through injection activity, allowed the movement of fluid which contained contaminants into Underground Sources of Drinking Water, where those contaminants could cause a violation of the primary drinking water regulations or otherwise adversely affect the health of persons. 40 C.F.R. §§ 144.12(a), 144.82(a)(1); 42 U.S.C. § 300h(d)(2).

3.22. Under Section 1447(b)(2) of the Act, 42 U.S.C. § 300j-6(b)(2), and 40 C.F.R. Part 19, Respondent is liable for administrative civil penalties up to \$32,500 per violation per

day during which the violation continued.

Count 2: Construction of a new MVWDW after April 5, 2000

3.23. Respondent violated 40 C.F.R. § 144.88(b)(2) because they constructed and operated the injection well, which is a MVWDW, after April 5, 2000.

3.24. Under Section 1447(b)(2) of the Act, 42 U.S.C. § 300j-6(b)(2), and 40 C.F.R. Part 19, Respondent is liable for administrative civil penalties not to exceed \$32,500 per day for each day during which the violation continued.

IV. CONSENT AGREEMENT

Penalty

4.1. EPA determined and Respondent agrees that an appropriate penalty to settle this action is in the amount of FIVE THOUSAND FIVE HUNDRED SEVENTY SEVEN DOLLARS (\$5,577). SWDA § 1447(b), 42 U.S.C. § 300j-6(b).

4.2. Respondent consents to issuance of the Final Order set forth in Part V, below, and agrees to pay the total civil penalty set forth in Paragraph 4.1, above, within 30 days of the effective date of the Final Order.

4.3. Payment under this CAFO must be made by electronic wire transfer or by Automated Clearinghouse, as follows:

For payment by electronic wire transfer:

Federal Reserve Bank of New York
ABA: 021030004
Account: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:

“D 68010727 Environmental Protection Agency, SDWA-10-2014-0027”

For payment by Automated Clearinghouse (ACH):

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

4.4. Respondent must send a notice by email to acctsreceivable.cinwd@epa.gov demonstrating that payment has been made and referencing the title and docket number of this action, and serve photocopies of the notice to the Regional Hearing Clerk and EPA Project Coordinator at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, MS ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Anne Christopher
U.S. Environmental Protection Agency
Ground Water Unit
1200 Sixth Avenue, Suite 900, OCE-082
Seattle, WA 98101

4.5. Should Respondent fail to pay the penalty assessed by this CAFO in full by its due date, the entire unpaid balance of the penalty shall become immediately due and owing. Should such a failure to pay occur, Respondent may be subject to a civil action to collect the assessed penalty under the SDWA. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

General Provisions

4.6. For the purpose of this proceeding, Respondent admits the jurisdictional allegations contained in Part III of this CAFO, and neither admits nor denies the specific factual allegations contained therein.

4.7. Each party shall bear its own costs in bringing or defending this action.

4.8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

4.9. Respondent expressly waives any right to contest the allegations and waive any right to appeal the Final Order set forth in Part V, below.

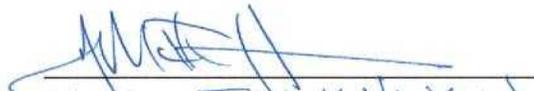
4.10. The provisions of this CAFO shall bind Respondent and its agents, servants, employees, successors, and assigns.

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

DATED:

1/8/14

FOR RESPONDENT:


Print Name: J. MARK VAUGHN
Title: Associate Regional Director

DATED:

1/14/2014

FOR COMPLAINANT:


EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement

V. FINAL ORDER

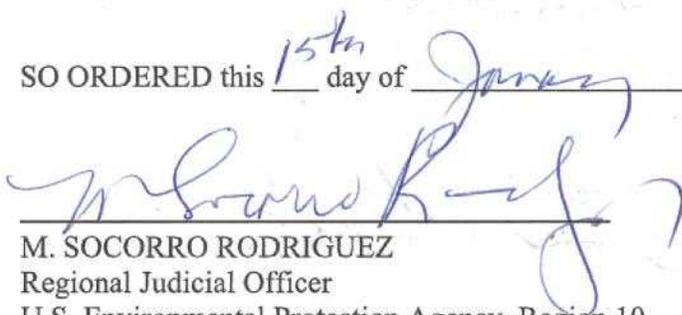
5.1. The terms of the foregoing Parts I-IV are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the foregoing terms of the settlement.

5.2. This CAFO shall constitute a settlement by EPA of all claims for administrative penalties pursuant to the SDWA for the violations alleged in Part III, above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligations to comply with all applicable provisions of the SDWA and regulations or permits promulgated thereunder.

5.3. Pursuant to Section 1447(b)(4) of the Act, 42 U.S.C. § 300j-6(b)(4), and 40 C.F.R. § 22.43(c), EPA provided public notice of Consent Agreement and Final Order served on the parties, and provided public notice that any interested person may, within 30 days of the effective date of the final Order, obtain judicial review of the penalty order pursuant to Section 1447(b)(4) of the Act, 42 U.S.C. § 300j-6(b)(4).

5.4 In accordance with 40 C.F.R. § 22.43(b), this Final Order shall become effective 30 days after it is served on the parties.

SO ORDERED this 15th day of January, 2014.


M. SOCORRO RODRIGUEZ
Regional Judicial Officer
U.S. Environmental Protection Agency, Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in: **In the Matter of: National Park Service, Docket No. SDWA-10-2014-0027**, was filed, and served as follows, on the signature date below.

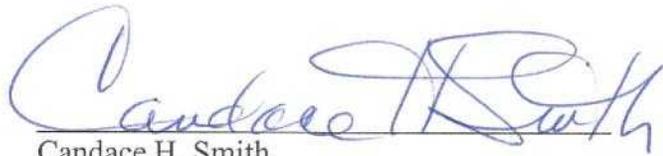
The undersigned certifies that a true and correct electronic copy of the document was delivered to:

Chris Bellovary
U.S. Environmental Protection Agency
Region 10, M/S: ORC-158
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

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

U.S. Department of the Interior
Office of the Regional Solicitor
Attn: Michael Gieryic
4230 University Drive, Suite 300
Anchorage, AK 99508

16 January 2014
Dated


Candace H. Smith
Regional Hearing Clerk
EPA Region 10

