

20080808 10:11:11

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Lincoln Road RV Park, Inc.)	Docket No. SDWA-08-2008-0038
)	
Helena, Montana)	COMPLAINANT'S
PWS ID #MT0003679)	MOTION FOR DEFAULT
)	
Respondent.)	
_____)	

Pursuant to 40 C.F.R. §22.17, Region 8 of the United States Environmental Protection Agency (EPA) respectfully requests that the Regional Judicial Officer (1) find the Respondent Lincoln Road RV Park, Inc. in default for failure to file an answer in this matter and (2) assess an administrative civil penalty of \$3,000 in favor of EPA. A memorandum in support of this motion and a proposed order are being filed with this motion.

Respectfully submitted,

Margaret J. Livingston
 Margaret J. (Peggy) Livingston
 Enforcement Attorney
 Office of Enforcement, Compliance
 and Environmental Justice
 U.S. EPA Region 8
 1595 Wynkoop Street
 Denver, Colorado 80202
 Telephone Number: (303) 312-6858
 Facsimile Number: (303) 312-7202

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

IN THE MATTER OF)	
)	Docket No. SDWA-08-2008-0038
Lincoln Road RV Park, Inc.)	
)	MEMORANDUM IN SUPPORT OF
Helena, Montana)	MOTION FOR DEFAULT
PWS ID #MT0003679)	
)	
Respondent.)	
<hr/>		

I. INTRODUCTION

This memorandum is filed in support of a motion for default filed by the United States Environmental Protection Agency (EPA). As set forth below, the respondent in this action has failed to answer the complaint that EPA filed nearly a year ago, has failed to answer a subsequent amended complaint, and has continued as recently as the fall of 2008 to violate the requirements at issue in this proceeding.

II. BACKGROUND

The Respondent Lincoln Road RV Park, Inc. (Respondent or Lincoln Road) owns and operates a public water supply system (the System) in Lewis and Clark County, Montana. The System is supplied by a groundwater source consisting of two wells. The System operates year-round, serves approximately 134 people daily, and is a "public water system" as that term is defined in section 1401(4) of the Safe Drinking Water Act (the SDWA), 42 U.S.C. §300f(4), and 40 C.F.R. §141.2.

On September 20, 2006, EPA issued an Administrative Order (the Order)¹ to Lincoln Road, alleging that Lincoln Road had violated provisions of the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. part 141 and the Administrative Rules of Montana (ARM) by:

- failing to monitor for coliform bacteria for twenty separate months from March of 2002 through July of 2006, in violation of 40 C.F.R. §141.21(a) and ARM §17.38.215(b),
- failing to take a set of repeat samples in September of 2004 within 24 hours of a total coliform positive result, in violation of 40 C.F.R. §141.21(b),
- failing to take five routine samples in October of 2001 and October of 2004 following a total coliform positive sample in each of the previous months, in violation of 40 C.F.R. §141.21(b)(5),
- failing to provide notice to the public of the violations mentioned above (with the exception of the October 2004 failure to take four repeat samples), in violation of 40 C.F.R. §141.201, and
- failing to report the violations mentioned above to the MDEQ, in violation of 40 C.F.R. §§141.21(g)(2) and 141.31(b).

The Order directed Lincoln Road to monitor monthly for coliform, to report monitoring results to EPA and the State of Montana within ten days of the end of the monitoring period, to take a set of at least four repeat coliform samples within 24 hours of being notified of a total

¹ See Administrative Order, Docket No. SDWA-08-2006-0050, filed with the Regional Hearing Clerk on September 20, 2006. A copy of the Order is also Exhibit 2 to both the Complaint and Notice of Opportunity for Hearing and the Amended Complaint and Notice of Opportunity for Hearing, filed on April 8, 2008, and December 4, 2008, respectively, with the Regional Hearing Clerk in this matter.

coliform positive sample, to take at least five routine coliform samples in any month following a total coliform positive sample, to provide public notice within 30 days of most of its prior failures to monitor for coliform, and to report to EPA and the State of Montana within 48 hours of any future failure to comply with any failure to comply with any NPDWR.²

Lincoln Road did not comply with the Order. On April 6, 2007, EPA notified Lincoln Road that Lincoln Road had failed to submit total coliform monitoring results for December of 2006 to EPA, had not provided a public notification it had been required to provide by October 20, 2006, and had failed to report its December of 2006 failure to monitor to EPA.³

On April 3, 2008, EPA filed a Complaint and Notice of Opportunity for a Hearing (the Complaint) against Lincoln Road, alleging that Lincoln Road had violated the Order by

- failing to monitor for total coliform bacteria during the months of December 2006, July 2007, August 2007, September 2007, and November of 2007, and
- failing to notify the public of the failures to monitor that had been cited in the Order and of the failure to monitor in December of 2006.

The Complaint proposed that Lincoln Road pay an administrative civil penalty of \$3,000 for these violations. Lincoln Road did not file an answer to the Complaint.

On December 4, 2008, EPA filed an Amended Complaint and Notice of Opportunity for a

² The Montana Department of Environmental Quality (MDEQ or State) has primary authority for enforcing the public water supply protection program in the state of Montana. Consequently, prior to issuing the Order, EPA had issued the Respondent and the State a Notice of Violation (NOV) on July 18, 2006, citing the violations listed in the Order. The NOV stated that if the State did not take action within thirty days from receipt of the NOV, EPA would be authorized to issue an Administrative Order under section 1414(g) of the SDWA, 42 U.S.C. §300g-3(g). The State did not take an enforcement action within thirty days of receiving the NOV. A copy of the NOV is on file with the Regional Hearing Clerk. Its Docket Number is SDWA-08-2006-0050.

³ A copy of this letter is Exhibit 3 to both the Complaint and Notice of Opportunity for a Hearing and the Amended Complaint and Notice of Opportunity for a Hearing, filed on April 8, 2008, and December 4, 2008, respectively, with the Regional Hearing Clerk in this matter.

Hearing (Amended Complaint) against Lincoln Road. The Amended Complaint included all the violations alleged in the Complaint. The Amended Complaint added references to eighteen notifications that the MDEQ had sent Lincoln Road regarding failures to monitor for coliform as required by ARM section 17.38.215. The Amended Complaint also proposed a \$3,000 penalty. Lincoln Road has not filed an answer to the Amended Complaint.

III. STANDARD FOR FINDING DEFAULT

A respondent may be found in default upon failure to file a timely answer to an administrative complaint. A respondent's default constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of the respondent's right to contest such factual allegations. 40 C.F.R. §22.17(a).

A motion for default may seek resolution of all or part of the proceeding. Where the EPA requests a penalty in a motion for default, EPA must specify the amount of, and explain the legal and factual basis for, the penalty it seeks. 40 C.F.R. §22.17(b).

When a Presiding Officer finds that a default has occurred, s/he shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued. The relief proposed in a complaint or motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the particular statute authorizing the proceeding at issue. 40 C.F.R. §22.17(c).

IV. ARGUMENT

A. Respondent Failed to File an Answer

According to 40 C.F.R. §22.15(a), a respondent must file an answer to a complaint with the Regional Hearing Clerk within 30 days after service of the complaint.

In this instance, the precise date of service of the Complaint is not known, because the signature on the return receipt card accompanying the Complaint was not dated. The card was signed by Kim Harrison, registered agent for Lincoln Road. The signed card was delivered to Region 8's Legal Enforcement Program on April 10, 2008. It was filed with the Regional Hearing Clerk on April 14, 2008. Its number is 7007 1490 0001 4785 7404.

Assuming for the sake of argument that the date of service is the date that the return receipt card was filed with the Regional Hearing Clerk (although the actual date of service must have been earlier), the deadline for Lincoln Road to have filed an answer was no later than May 14, 2008. However, Lincoln Road did not file an answer.

On August 15, 2008, EPA wrote to Lincoln Road, stating that EPA had received no answer to the Complaint and was therefore entitled to file a motion for default. However, the letter stated that EPA would elect not to file a motion for default if Lincoln Road were to file an answer by September 15, 2008.⁴ The return receipt card accompanying this letter was delivered to the Regional Hearing Clerk's office on August 27, 2008. Again, the card was signed by Ms. Harrison, but her signature was not dated. The card's number is 7004 1350 0001 5669 8032.

⁴ A copy of the August 15, 2008, letter was filed with the Regional Hearing Clerk on August 15, 2008.

On December 4, 2008, EPA filed the Amended Complaint. Again, Ms. Harrison, on behalf of Lincoln Road, signed but did not date the return receipt card.⁵ The return receipt card was filed with the Regional Hearing Clerk on December 23, 2008. The card's number is 7008 1830 0001 2697 7539.

Lincoln Road has not answered the Amended Complaint.

B. Prima Facie Case of Liability

A respondent's default constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of that respondent's right to contest the complaint's factual allegations. 40 C.F.R. §22.17(a); see also In the Matter of: Alvin Raber, Jr., and Water Enterprises Northwest, Inc., 2004 EPA RJO LEXIS 188 (July 22, 2004, RJO Alfred C. Smith).

To prove a *prima facie* case of liability in this matter, EPA must prove that Lincoln Road is a person that owns and/or operates a public water supply system, that Lincoln Road was issued an administrative order under section 1414(g) of the Act, 42 U.S.C. §300g-3(g), and that Lincoln Road violated that order.

The facts alleged in the Amended Complaint establish liability. By failing to answer the Amended Complaint, Lincoln Road has admitted all factual allegations in the Amended Complaint, including the following:

1. Lincoln Road is a Montana corporation. (Par. 1, Amended Complaint.)

⁵ The failure of Lincoln Road's registered agent to date the signatures on the return receipt cards for the Complaint and Amended Complaint should not prevent a default motion from being entered. See, e.g., In the Matter of Shaded Acres Water Company, 1992 EPA RJO LEXIS 15 (July 20, 1992, RJO Regina M. Kossek) and 1992 EPA ALJ LEXIS 718 (July 14, 1992), where a default judgment was entered after a representative of the respondent had signed return receipt cards accompanying two copies of the complaint, without indicating signature dates.

2. The System has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. (Par. 2 and 3, Amended Complaint.)
3. Lincoln Road owns and/or operates the System. (Par. 2, Amended Complaint.)
4. The System uses ground water as its source and serves approximately 134 individuals daily through approximately 66 service connections. It is operational year-round. (Paragraph 5, Amended Complaint.)
5. On September 20, 2006, citing section 1414(g) of the SDWA, 42 U.S.C. §300g-3(g), the EPA issued the Order to Lincoln Road. The Order alleged that Lincoln Road had violated certain requirements in the NPDWRs and the Administrative Rules of Montana (which the Order stated met the definition of “applicable requirement” in section 1414(i) of the SDWA, 42 U.S.C. §300g-3(i)). The alleged violations included failing to monitor the System’s water each month for total coliform and failing to provide public notice of these violations. (Par. 25, Amended Complaint; see also the Order itself, which, as mentioned above, is Complainant’s Exhibit 2 to the Amended Complaint and was first filed with the Regional Hearing Clerk on September 20, 2006.)
6. The Order directed Lincoln Road to conduct monthly bacteriological monitoring. (Par. 26 Amended Complaint, citing a copy of the Order attached as Exhibit 2 to the Amended Complaint; see also the Order itself, pages 5 and 6, paragraph 1 in the “Order” section.)
7. Even after receiving the Order, Lincoln Road failed to monitor the System’s water for total coliform in December of 2006, July of 2007, August of 2007, September of 2007, and November of 2007. (Count 1, Amended Complaint.)⁶
8. The Order directed Lincoln Road to notify the public of the failures to monitor monthly for total coliform that were cited in the Order and of any post-Order failures to monitor for total coliform. (Par. 26 Amended Complaint, citing a copy of the Order attached as Exhibit 2 to the Amended Complaint; see also the Order itself, page 7, paragraph 4 in the “Order” section.)
9. Even after receiving the Order, Lincoln Road failed to notify the public of the failures to monitor for total coliform that had been cited in the Order. Lincoln

⁶ As mentioned in section IV.C.3.c, below, Lincoln Road also failed to submit results of monitoring the System’s water for coliform in October of 2008 to EPA and the State. EPA has presented proof of this violation by affidavits. (Attachments 2 and 3.) Because this violation was not alleged in the Amended Complaint, Lincoln Road’s failure to answer the Amended Complaint did not admit this violation.

Road also failed to notify the public its failure to monitor for total coliform in December of 2006. (Count 2, Amended Complaint.)

In addition, by not answering the Amended Complaint, Lincoln Road has admitted that on eighteen separate occasions, the MDEQ notified Lincoln Road that Lincoln Road failed to conduct required monthly monitoring for coliform bacteria for eighteen separate months, in violation of ARM section 17.38.215. (Par. 6-23, Amended Complaint.)

Based on Lincoln Road's factual admissions, the following *prima facie* case has been established: the System, which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, is a "public water system" as that term is defined in section 1401(4) of the SDWA, 42 U.S.C. §300f(4); Lincoln Road, being a corporation, is a "person" as that word is defined in section 1401(12) of the SDWA, 42 U.S.C. §300f(12); Lincoln Road owns and/or operates a public water system; Lincoln Road therefore is subject to the NPDWRs, according to section 1411 of the SDWA, 42 U.S.C. §300g, and 40 C.F.R. §141.4; Lincoln Road has violated an order issued under section 1414(g) of the SDWA, 42 U.S.C. §300g-3(g); and Lincoln Road is therefore liable to EPA for a civil administrative penalty pursuant to section 1414(g)(3) of the SDWA, 42 U.S.C. §300g-3(g)(3).

C. Grounds in Support of the Requested Penalty

EPA has requested a penalty of \$3,000. According to 40 C.F.R. §22.17(c), the relief proposed in a complaint or motion for default should be ordered unless the relief requested is clearly inconsistent with the record of the proceeding or the particular statute authorizing the proceeding at issue. As demonstrated below, the requested penalty is consistent with the record in this proceeding, the SDWA, and legal precedent.

Section 1414(g)(3) of the SDWA, 42 U.S.C. §300g-3(g)(3), authorizes EPA to assess a civil administrative penalty of up to \$25,000 for violation of an order issued under section 1414(g) of the SDWA, 42 U.S.C. §300g-3(g). This amount has been adjusted for inflation to \$27,500, as provided in 40 C.F.R. part 19, for violations occurring March 16, 2004, through January 12, 2009, and to \$32,500 for violations occurring after January 12, 2009. (Sec 74 Fed. Reg. 626, 628 (January 12, 2009).)

For a judicial enforcement action, a court is to consider the seriousness of the violation, the population at risk, and other appropriate factors when imposing civil penalties, according to section 1414(b) of the SDWA, 42 U.S.C. §300g-3(b). For assessing administrative penalties, the SDWA does not specify factors for EPA to consider.

Various Administrative Law Judges have held that it is appropriate to consider the statutory penalty factors in administrative penalty cases. See, e.g., In the Matter of Sunbeam Water Company, Inc, et al., 1999 EPA ALJ LEXIS 79, 1999 WL 1013077 (ALJ Pearlstein, October 28, 1999); In the Matter of Paul Durham, d/b/a Windmill Hill Estates Water System, 1997 EPA ALJ LEXIS 107, 1997 WL 273142, Docket No. [SDWA]-C930036 (ALJ Biro, April 14, 1997); In the Matter of: Anthony J. Taylor, Andover Water Corporation, 1992 EPA ALJ LEXIS 713, 1992 WL 293140, Docket No. PWS-NJ-CFP-03 (ALJ Yost, August 14, 1992).

EPA has not developed a policy for proposing penalty amounts in public water supply enforcement actions. Sunbeam, *supra*. Therefore, EPA presents the following analysis of the factors set forth in section 1414(b) of the SDWA, 42 U.S.C. §300g-3(b).

1. Population At Risk

As mentioned above, the System serves a population of approximately 134 individuals. In at least three cases involving comparable or lower populations, Administrative Law Judges have assessed a penalty of \$5,000, substantially more than what EPA has proposed in this case. See, e.g., In the Matter of: Board of Directors of Rural Aqueduct, et al., 2005 EPA RJO LEXIS 340, Docket No. SDWA-02-2003-8264 (RJO Helen S. Ferrara, June 16, 2005), where the system served 120 individuals; Taylor, supra, where the system served 160 individuals; and Durham, supra, where the Administrative Law Judge found no support for the allegation that the system served 37 persons, instead finding that “all that can be concluded is that at least 25 persons would be potentially exposed to the risk.” 1997 EPA ALJ LEXIS 107, *47.

2. Seriousness of Violations

For failures to monitor public water supplies, Administrative Law Judges have assessed penalties of at least several thousand dollars.

In Durham, supra, where a public water supply system had failed to sample for coliform bacteria for eleven months, and EPA sought \$5,000, the judge held that EPA’s calculations had understated the seriousness of the violations:

Expert testimony at the hearing indicated that coliform analysis involves testing for the presence of coliform bacteria, which are bacteria which come from the gastrointestinal tracts of warm-blooded animals. Such bacteria also exist in the environment. [The project manager for EPA Region 6’s Drinking Water Enforcement Program] indicated that some coliform organisms can, by themselves, be very dangerous to the environment. [He] indicated that some coliform organisms can, by themselves, be very dangerous to the health of persons with compromised immune systems. [citation omitted] However, coliform is mainly used as a secondary pathogen, to suggest the presence of other organisms dangerous to the health of humans. [citation omitted] Exposure to such organisms can result in gastrointestinal diseases, nausea, vomiting, dizziness, and

convey illnesses like hepatitis, typhoid, giardiasis and cryptosporidiosis. [citation omitted] Mr. Durham's failure to have the water analyzed for months at a time left the health of men, women, and children drinking it exposed to these conditions. [1997 EPA ALJ LEXIS 107, *44-45]

In Durham, although coliform had been detected in the system, no evidence was presented of any complaints about anyone becoming sick from drinking the system's water. Nonetheless, the Administrative Law Judge found that the system's failures to analyze coliform samples and report results were serious violations:

[The violations] directly undermin[ed] the purpose of the SDWA enforcement program, which is the foundation of the EPA's ability to generally protect human health by maintaining water potability. Without the results of periodic water analysis the Agency cannot effectively exercise its power under the [Safe Drinking Water] Act to take measure to prevent the consumption of contaminated water and demand water improvement efforts. [1997 EPA ALJ LEXIS 107, *47]

Similarly, in In Re: Village of Glendora, 1992 EPA ALJ LEXIS 712 (ALJ Yost, May 20, 1992), another Administrative Law Judge observed:

Without adequate monitoring and monitoring data supplied by [Glendora], EPA is unable to determine whether [Glendora] is supplying water to the public that does not exceed the maximum contaminant levels established by national primary drinking water regulations. [Glendora's] violations of the AO as they relate to coliform bacteria testing analysis, reporting and public notification are grave. [1992 EPA ALJ LEXIS 712, *11-12]

Lincoln Road's longstanding failures to monitor for coliform and to report its violations to the State are serious violations. Because Lincoln Road consistently failed to provide the State with results of coliform testing or even to alert the State that it had not performed the required sampling, the State and EPA were left without knowing whether Lincoln Road's customers were drinking safe water or the extent to which the customers were at risk of contracting diseases from coliform or other pathogens in their drinking water.

3. Other Appropriate Factors

As “other appropriate factors” in public water supply cases, Administrative Law Judges have considered the factors set forth in EPA General Enforcement Policy GM-21 (Attachment 3 to this Memorandum). Sunbeam, *supra*, 1999 EPA ALJ LEXIS 79, *24; Glendora, *supra*, 1992 EPA ALJ LEXIS 712, *9. According to GM-21, the steps in calculating a penalty are:

- first, calculate a preliminary deterrence amount, consisting of:
 - economic benefit, and
 - a gravity component
- second, to apply the following adjustment factors to compute an initial penalty target figure:
 - degree of cooperation / noncooperation
 - degree of willfulness and/or negligence
 - history of noncompliance
 - ability to pay (optional)
 - other unique factors
- third, to adjust the initial penalty target figure after negotiations have begun.⁷

a. Economic Benefit

The amount of money that Lincoln Road saved by failing to monitor for coliform and provide public notice was probably minimal. In similar cases, administrative judges have found relatively low amounts of economic benefit for these types of violations. See, e.g., Glendora, *supra*, finding an economic benefit of \$25 for each month of failing to sample for coliform

⁷ This step is not applicable to this case, because there have been no settlement negotiations.

bacteria. Thus, for the five monitoring violations alleged in the Amended Complaint, a conservative estimate of economic benefit is therefore \$125. The estimated economic benefit for Lincoln Road's failures to provide public notice of its failures to monitor is likewise minimal.

According to GM-21, EPA retains discretion not to calculate economic benefit where the amount is likely to be less than \$10,000. (See GM-21, page 11.) A relatively small economic benefit should not preclude a penalty. See, for example, In the Matter of: Melotz Trucking, Inc., Docket No. CWA-08-2005-0033, 2006 EPA RJO LEXIS 238 (RJO Sutin, July 9, 2006), in which a penalty of \$5,000 was assessed on a motion for default in a Clean Water Act case, where EPA did not present calculations of economic benefit and the Regional Judicial Officer concluded that if there was any economic benefit for the violation, it was negligible.

b. Degree of Cooperation / Noncooperation

Lincoln Road has shown no cooperation with EPA. Although Lincoln Road has been given repeated opportunities to answer the Complaint and Amended Complaint and to contact EPA to initiate settlement negotiations, Lincoln Road has failed to do so. Additionally, as mentioned above, with the Complaint, the Amended Complaint, and EPA's August 15, 2008, letter extending the time before EPA would file a motion for default, Lincoln Road's representative failed to date the signature on the return receipt card that was returned to EPA.

c. Degree of Willfulness or Negligence

Lincoln Road's violations persisted after it received no fewer than 18 notices of violation from the State, after it received the Order, and even after EPA initiated this proceeding. As demonstrated by Attachments 2 and 3 to this Memorandum, Lincoln Road failed to submit coliform monitoring results for October of 2008 to either EPA or the State.

Lincoln Road's continued violations in the face of frequent notices from the State and EPA demonstrate that Lincoln Road has acted knowingly and willfully in ignoring its responsibilities to meet the drinking water requirements.

In Glendora, *supra*, where the respondent had failed to respond to an EPA order to bring its system into compliance and where the state, as here, had notified the respondent over a period of years of its violations, a penalty of \$5,000 was assessed. It is therefore conservative to assess a \$3,000 penalty in this case.

d. History of Noncompliance

As demonstrated by the State's notices of violation, Lincoln Road's violations had been occurring for over four years before the EPA issued its Administrative Order. This factor supports a substantial penalty.

e. Ability to Pay

Where a respondent does not raise the claim that it is unable to pay a proposed penalty, there is no reason for a court to consider it. Taylor, *supra*, 1992 EPA ALJ LEXIS 713, *9. Having failed to respond to the Complaint and Amended Complaint, Lincoln Road has not raised the possibility of being unable to pay the proposed penalty. Thus, there is no reason for the penalty to be reduced for this factor.

f. Other Unique Circumstances

Both EPA and the State have spent considerable resources attempting to bring Lincoln Road into compliance and to obtain an answer in this action. Lincoln Road's noncompliance has placed an inordinately high burden on both state and federal regulatory agencies. To deter similar violations by other systems in the future, a substantial penalty is warranted.

V. CONCLUSION

Lincoln Road failed to answer EPA's Complaint and Amended Complaint. For the reasons set forth above, EPA requests that the Presiding Officer find Lincoln Road in default and issue a default order assessing a penalty of \$3,000.

Respectfully submitted,



Margaret J. (Peggy) Livingston
Enforcement Attorney
Office of Enforcement, Compliance
and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202
Telephone Number: (303) 312-6858
Facsimile Number: (303) 312-7202

Attachments:

1. EPA General Enforcement Policy GM-21, February 16, 1984.
2. Affidavit of Sienna Paquin
3. Affidavit of Kimberly Pardue Welch

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the preceding Motion for Default, the Memorandum in Support of Motion for Default (together with all Attachments), and the proposed Order were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, that a true copy of each of the foregoing was provided to Regional Judicial Officer Elyana R. Sutin at the previously-stated address, and that a true copy of each of the foregoing was sent to the following by CERTIFIED MAIL/RETURN RECEIPT REQUESTED, Number 1008 - 3230 - 0003 0730-5489:

Kim Harrison
Registered Agent
Lincoln Road RV Park, Inc.
850 West Lincoln Road
P.O. Box 9708
Helena, MT 59604

Date: 2/11/09

By: Judith McTernan
Judith McTernan