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U.S. ENVIRONMENTAL PROTECTION AGENCY  
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**BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:	)	DOCKET NO. CWA 10-2008-0131
DAVID R. SWEEZEY,	)	<b>CONSENT AGREEMENT AND</b>
Respondent,	)	<b>FINAL ORDER</b>
Anchorage, Alaska.	)	

**I. STATUTORY AUTHORITIES**

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA" or "Complainant") by Section 309(g)(2)(B) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(g)(2)(B).

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10, who in turn has redelegated this authority to the Regional Judicial Officer.

1.3. Pursuant to Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and David R. Sweezy ("Respondent") hereby agrees to issuance of, the Final Order contained in Part IV of this CAFO.

**CONSENT AGREEMENT AND  
FINAL ORDER - 1**  
  
Docket No. CWA 10-2008-0131

**U.S. Environmental Protection Agency, Region 10**  
1200 Sixth Avenue, Suite 900 (ORC-158)  
Seattle, Washington 98101  
(206) 553-1796



1           3.3.   Respondent neither admits nor denies the specific factual allegations contained in  
2 the Complaint.

3           3.4.   Respondent expressly waives the right to contest the allegations contained in the  
4 Complaint and to appeal the Final Order contained herein.

5           3.5.   Pursuant to Section 309(g), 33 U.S.C. § 1319(g), EPA has determined and  
6 Respondent agrees that an appropriate penalty to settle this action is in the amount of TEN  
7 THOUSAND DOLLARS (\$10,000.00). This penalty amount has been agreed upon in  
8 consideration of the statutory penalty factors identified in Section 309(g)(3) of the CWA, 33  
9 U.S.C. § 1319(g)(3).

10           3.6.   Respondent consents to the issuance of the Final Order recited herein and to  
11 payment of the civil penalty cited in the foregoing paragraph within 30 days of the effective date  
12 of this Consent Agreement and Final Order.  
13

14           3.7.   Payments under this CAFO shall be made by cashier's check or certified check  
15 payable to the order of "Treasurer, United States of America" and shall be delivered to the  
16 following address:

17                           U.S. Environmental Protection Agency  
18                           Fines and Penalties  
19                           Cincinnati Finance Center  
20                           P.O. Box 979077  
21                           St. Louis, MO 63197-9000

22           Respondent shall note on the check the title and docket number of this case

23           3.8.   Respondent shall serve photocopies of the check described above on the Regional  
24 Hearing Clerk and EPA at the following addresses:  
25

**CONSENT AGREEMENT AND  
FINAL ORDER - 3**

**Docket No. CWA 10-2008-0131**

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Seattle, Washington 98101  
(206) 553-1796**

1 Regional Hearing Clerk  
2 U.S. Environmental Protection Agency  
3 Region 10  
4 1200 Sixth Avenue,  
5 Suite 900 (Mail Stop ORC-158)  
6 Seattle, Washington 98101

7 U.S. Environmental Protection Agency  
8 Alaska Operations Office  
9 Attn: Heather Dean  
10 222 W. 7<sup>th</sup> Avenue, Box #19  
11 Anchorage, Alaska 99513-7588

12 3.9. If Respondent fails to pay the penalty assessed by this CAFO in full by the due  
13 dates set forth in Paragraph 3.6, above, Respondent may be subject to a civil action to collect the  
14 assessed penalty under the CWA, together with additional interest, fees, costs, and penalties  
15 described below. In any collection action, the validity, amount, and appropriateness of the  
16 penalty shall not be subject to review.

17 3.10. If Respondent fails to pay any portion of the penalty assessed by this CAFO in  
18 full by the due date set forth in Paragraph 3.6, above, Respondent shall be responsible for  
19 payment of the amounts described below:

20 3.10.1. Interest. Pursuant to CWA Section 309(g)(9), 33 U.S.C. 1319(g)(9), any  
21 unpaid portion of the assessed penalty shall bear interest at a rate established by the  
22 Secretary of Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the  
23 Final Order set forth in Part IV, below, provided, however, that no interest shall be  
24 payable on any portion of the assessed penalty that is paid within thirty (30) days of the  
25 effective date of the Final Order.

3.10.2. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to  
CWA Section 309(g)(9), 33 U.S.C. § 1319(g)(9), if Respondent fails to pay on a timely

CONSENT AGREEMENT AND  
FINAL ORDER - 4

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1 basis the amount of the penalty set forth in Paragraph 3.5, above, Respondent shall pay  
2 (in addition to any assessed penalty and interest) attorneys fees and costs for collection  
3 proceedings and a quarterly nonpayment penalty for each quarter during which such  
4 failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty  
5 percent (20%) of the aggregate amount of Respondent's penalties and nonpayment  
6 penalties which are unpaid as of the beginning of such quarter.

7 3.11. The penalty described in Paragraph 3.5, above, including any additional costs  
8 incurred under Paragraph 3.10, above, represents an administrative civil penalty assessed by  
9 EPA and shall not be deductible for purposes of federal taxes.  
10

11 3.12. The undersigned representative of Respondent certifies that he or she is fully  
12 authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this  
13 document.

14 3.13. Except as described in Subparagraph 3.10.2, above, each party shall bear its own  
15 costs in bringing or defending this action.

16 3.14. The provisions of this CAFO shall bind Respondent and his agents, servants,  
17 employees, successors, and assigns.

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**CONSENT AGREEMENT AND  
FINAL ORDER - 5**

Docket No. CWA 10-2008-0131

**U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 900 (ORC-158)  
Seattle, Washington 98101  
(206) 553-1796**

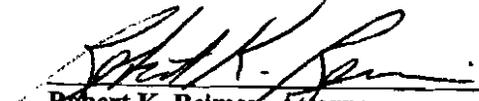
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3.15. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA.

**FOR RESPONDENT**

**DATED:** **DAVID R. SWEEZEY**

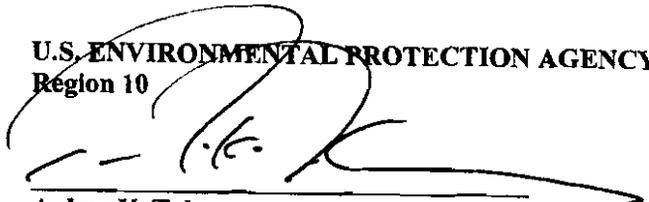
Feb. 12, 2009

  
**Robert K. Reiman, Attorney**  
**Law Offices of Robert K. Reiman**  
**Counsel for David R. Sweezy.**

**FOR COMPLAINANT**

**DATED:** **U.S. ENVIRONMENTAL PROTECTION AGENCY**  
**Region 10**

2.13.09

  
**Ankur K. Tohan**  
**Assistant Regional Counsel**  
**Counsel for Complainant**

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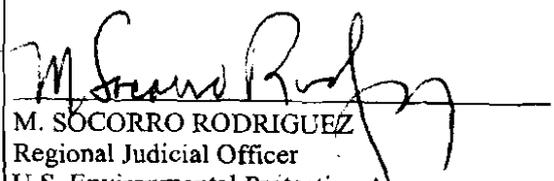
**IV. FINAL ORDER**

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

4.2. This CAFO shall constitute a settlement by EPA of all claims for civil penalties pursuant to the CWA 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 or the United States 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 CWA, the CWA regulations, and/or any CWA permits.

4.3. This Final Order shall become effective upon filing.

SO ORDERED this 25<sup>th</sup> day of February, 2009.

  
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: David R. Sweezey, DOCKET NO.: CWA-10-2008-0131** was filed with the Regional Hearing Clerk on February 25, 2009.

On February 25, 2009 the undersigned certifies that a true and correct copy of the document was delivered to:

Ankur Tohan, Esquire  
US Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Suite 900  
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 on February 25, 2009, to:

Robert K. Reiman  
Law Offices of Robert K. Reiman  
619 E. Ship Creek Avenue  
Suite 250  
Anchorage, AK 99501

A true and correct copy, via pouch mail and fax:

Hon. Susan L. Biro, Chief  
Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Ave., NW  
Washington, DC 20460-2001

DATED this 25<sup>th</sup> day of February 2009.



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Carol Kennedy  
Regional Hearing Clerk  
EPA Region 10