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8 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
9 **REGION 9**

11 IN THE MATTER OF:)
12 Eric Hauck, individually and as trustee of the)
13 Acton Holding Trust,)
14 Respondent.)

DOCKET NO. UIC-09-2023-0029

ADMINISTRATIVE COMPLAINT

15 Proceedings under Section 1423(c) of the Safe)
16 Drinking Water Act, 42 U.S.C. § 300h-2(c).)
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In re: Eric Hauck, Acton Holding Trust
Administrative Complaint UIC-09-2023-0029

1 **I. AUTHORITY**

2 1. The United States Environmental Protection Agency (EPA or “Complainant”) issues this
3 Administrative Complaint pursuant to the authority vested in the Administrator of EPA and
4 properly delegated to the EPA Region 9 Director of the Enforcement and Compliance Assurance
5 Division under Section 1423(c) of the Safe Drinking Water Act (“SDWA” or “Act”), 42 U.S.C.
6 § 300h-2(c). The rules for this proceeding are the “Consolidated Rules of Practice Governing the
7 Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of
8 Permits” (“Rules of Practice”), 40 Code of Federal Regulation (“C.F.R.”) Part 22, a copy of
9 which is enclosed. *See specifically* 40 C.F.R. § 22.1(a)(9). Pursuant to the Rules of Practice, 40
10 C.F.R. § 22.13(a), this Administrative Complaint conforms to the prehearing procedures at 40
11 C.F.R. § 22.14 governing administrative complaints and is hereinafter referred to also as the
12 “Complaint.” EPA alleges as follows:

13 **II. JURISDICTION**

14 2. The Regional Judicial Officer for EPA Region 9 is the Presiding Officer with jurisdiction
15 over this action pursuant to the Rules of Practice, 40 C.F.R. §§ 22.50(a)(2) and 22.51.

16 **III. STATUTORY AND REGULATORY BACKGROUND**

17 3. To prevent underground injection from endangering drinking water sources, EPA has
18 promulgated regulations pursuant to Part C of the Act, 42 U.S.C. §§ 300h – 300h-8, which
19 establish minimum requirements for Underground Injection Control (“UIC”) programs. These
20 UIC regulations are set forth in 40 C.F.R. Part 144.

21 4. The UIC regulations define “underground injection” to mean the subsurface emplacement
22 of fluids by well injection. 42 U.S.C. § 300 h(d)(1), 40 C.F.R. § 144.3.

23 5. “Well injection” is defined to mean the subsurface emplacement of fluids through a well.
24 40 C.F.R. § 144.3

1 6. A “drywell” is a type of well, other than an improved sinkhole or subsurface fluid
2 distribution system, completed above the water table so that its bottom and sides are typically dry
3 except when receiving fluids. 40 C.F.R. § 144.3.

4 7. A “cesspool” is a type of drywell that receives untreated sanitary waste containing human
5 excreta, and which sometimes has an open bottom and/or perforated sides. 40 C.F.R. § 144.3.

6 8. “Sanitary waste” is defined to include “wastes collected from toilets, showers, wash
7 basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing
8 operations, and sinks or washing machines where food and beverage serving dishes, glasses and
9 utensils are cleaned.” 40 C.F.R. § 144.3.

10 9. The UIC regulations define “large capacity cesspools” to mean cesspools, including those
11 that receive sanitary waste from “multiple dwellings, community or regional cesspools, or other
12 devices,” but excluding single family residential cesspools or non-residential cesspools which
13 receive solely sanitary waste and have the capacity to serve fewer than 20 persons per day. 40
14 C.F.R. § 144.81(2).

15 10. The UIC regulations classify large capacity cesspools as Class V UIC injection wells. 40
16 C.F.R. § 144.80(e).

17 11. A Class V UIC injection well is considered a “facility or activity” subject to regulation
18 under the UIC program. 40 C.F.R. § 144.3.

19 12. “Owner or operator” means the owner or operator of any “facility or activity” subject to
20 regulation under the UIC program. 40 C.F.R. § 144.3.

21 13. The “owner or operator” of a Class V UIC well “must comply with federal UIC
22 requirements in 40 C.F.R. Parts 144 through 147,” and must also “comply with any other
23 measures required by States or an EPA Regional Office UIC Program to protect [underground
24 sources of drinking water].” 40 C.F.R. § 144.82.

1 14. The UIC regulations at 40 C.F.R. § 144.88(a) prohibit new large capacity cesspools and
2 required owners and operators of existing large capacity cesspools to close them no later than
3 April 5, 2005, in accordance with the closure specifications contained in 40 C.F.R. § 144.89.

4 15. Pursuant to Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), and 40 C.F.R.
5 § 147.251, EPA administers the Class V UIC program in the State of California. This UIC
6 program consists of the requirements of 40 C.F.R. Parts 124, 144, 146, 147 (Subpart F), and 148.

7 16. Pursuant to Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R.
8 § 19.4, EPA may issue an administrative order against any person who violates the Act or any
9 requirement of an applicable UIC program, and the administrative order may

10 a. assess an administrative civil penalty of not more than \$27,018 for each day of
11 each violation occurring after November 2, 2015, up to a maximum penalty of
12 \$337,725, or

13 b. require compliance with any UIC regulation or other requirement of the UIC
14 program, or

15 c. both assess an administrative civil penalty and require compliance with any UIC
16 regulation or other requirement of the UIC program.

17 **IV. FINDING OF VIOLATION**

18 17. Respondent, Erik Hauck, is the trustee of the Acton Holding Trust.

19 18. In his capacity as trustee of the Acton Holding Trust, Respondent has, since at least April
20 2011, and at all times relevant to this action, owned the real property located at 3740 Smith
21 Avenue, Acton, California 93510 with Assessor Parcel Number 3208-026-048 (the “Property”).

22 19. Respondent, both individually and in his capacity as trustee of the Acton Holding Trust,
23 has, since at least July 2015, and at all times relevant to this action, also operated on the Property
24 the Cactus Creek Mobile Home Park (the “Park”), a mobile home park comprising at least seven
25 mobile homes.

1 20. The Los Angeles Regional Water Quality Control Board inspected the Park in December
2 2019.

3 21. Since at least December 2019, and at all times relevant to this action, the Park's
4 wastewater disposal system has consisted of two cesspools located on the Property.

5 22. The Respondent, both individually and in his capacity as trustee of the Acton Holding
6 Trust, owns and/or operates the two cesspools.

7 23. The westernmost cesspool receives sanitary waste, including human excreta, from at least
8 two of the Park's mobile homes.

9 24. The easternmost cesspool likewise receives sanitary waste, including human excreta,
10 from at least two of the Park's mobile homes.

11 25. The two cesspools serving the Park's seven mobile homes are "large capacity cesspools"
12 within the meaning of 40 C.F.R. § 144.81(2) because each receives sanitary waste, including
13 human excreta, from multiple dwellings.

14 26. Respondent is a "person" within the meaning of Section 1401(12) of the Act, 42 U.S.C.
15 § 300f(12) and 40 C.F.R. § 144.3, because he is an individual.

16 27. Respondent is an "owner or operator" within the meaning of 40 C.F.R. § 144.3 because
17 he owns and/or operates a "facility or activity" subject to regulation under the UIC program.

18 28. Respondent's failure to close the large capacity cesspools by April 5, 2005, or any time
19 thereafter is a violation of the Act and of the UIC program regulations set forth at 40 C.F.R.
20 § 144.88.

21 **V. RELIEF SOUGHT: PROPOSED ORDER FOR PENALTIES AND COMPLIANCE**

22 29. Pursuant to Section 1423(c)(3) of the Act, 42 U.S.C. § 300h-2(c)(3), EPA requests that
23 the Presiding Officer issue an order ("Order") in this matter assessing an administrative penalty
24 and requiring compliance with the UIC program, namely the closure of the large capacity
25 cesspools, as proposed below.

1 A. Proposed Administrative Civil Penalty

2 30. Pursuant to Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), and 40 C.F.R. § 19.4,
3 Respondent shall pay an administrative penalty of up to \$27,018 for each day of violation of the
4 Act, up to a maximum penalty of \$337,725.

5 31. In assessing a civil penalty, Section 1423(c)(4) of the Act requires that EPA take into
6 account the following factors: (1) the seriousness of the violations; (2) the economic benefit
7 resulting from the violations; (3) any history of such violations; (4) any good faith efforts to
8 comply with the applicable requirements; (5) the economic impact of the penalty on Respondent;
9 and (6) such other matters as justice may require.

10 32. In accordance with 40 C.F.R. § 22.14(a)(4)(ii), which applies when the complaint does
11 not contain a specific penalty demand, the following briefly explains the duration and severity of
12 Respondent's violation: Respondent violated a crucial provision of the UIC program by owning
13 and/or operating two large capacity cesspools since at least July 2015 to the present day. The
14 Act's UIC regulations at 40 C.F.R. § 144.88 required closure of all such cesspools by April 5,
15 2005, to prevent the direct contamination of drinking water supplies and minimize the risk of
16 contamination of any potential drinking water sources. *See* 64 Fed. Reg. 66,546 (Dec. 7, 1999).
17 In promulgating that requirement, EPA found that large capacity cesspools have a high potential
18 to contaminate underground sources of drinking water and threaten human health because (1)
19 sanitary waste entering large capacity cesspools can percolate out of the bottom of wells to
20 shallow groundwater sources of drinking water; (2) wastewater from large capacity cesspools
21 frequently exceeds drinking water health standards for nitrates, total suspended solids, and
22 coliform bacteria and may contain other contaminants of concern such as phosphates, chlorides,
23 grease, viruses, and chemicals used to clean cesspools (e.g., trichloroethane and methylene
24 chloride); and (3) pathogens in untreated sanitary waste released from large capacity cesspools

1 could pose an acute health risk (e.g., a person could become ill by drinking from an affected
2 water supply). *Id.* at 68,553.

3 33. Within 30 days of the effective date of any final Order issued by the Presiding Officer,
4 Respondent shall pay any penalty required by the Presiding Officer in accordance with the
5 instructions posted on EPA's website at <https://www.epa.gov/financial/makepayment> and
6 <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

7 34. EPA will notify the public of this Complaint in accordance with the requirements of 40
8 C.F.R. § 22.45(b).

9 B. Compliance with the UIC Program

10 35. Pursuant to Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1),

11 a. Respondent shall, within 60 days of the effective date of any final Order issued by
12 the Presiding Officer, close both large capacity cesspools in accordance with 40
13 C.F.R. § 144.89(a) and all other applicable requirements. Respondent shall
14 comply with all federal, state, and local laws governing the proper closure and/or
15 conversion of cesspools, including timely submittal of all necessary permit
16 applications and diligent pursuit of issuance of such permits and application of all
17 federal and state cross-cutting authorities, as appropriate.

18 b. Respondent shall, within 30 days of closure of the large capacity cesspools,
19 submit to EPA a description of how the large capacity cesspools were closed, the
20 names of the contractor(s) providing the service, and copies of any reports or
21 approvals from any state or local agencies documenting pertaining to the closure
22 of the cesspools. Respondent shall also submit all related approvals, including for
23 any replacement systems, issued by applicable permitting authorities.
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25

1 **VII. ANSWERING THE COMPLAINT AND REQUESTING A HEARING**

2 A. Answer to the Complaint

3 36. If Respondent intends to contest any material fact upon which the Complaint is based, or
4 wishes to contend that the proposed penalty is inappropriate or that Respondent is entitled to
5 judgment as a matter of law, the Rules of Practice at 40 C.F.R. § 22.15(a) require that
6 Respondent file an original and one copy of a written Answer with EPA Region 9’s Regional
7 Hearing Clerk within 30 days after service of this Complaint at the address below:

8 Ponly Tu
9 Regional Hearing Clerk
10 U.S. Environmental Protection Agency, Region 9
11 75 Hawthorne Street (mail code: ORC-1)
12 San Francisco, CA 94105
13 R9HearingClerk@epa.gov

14 37. The Rules of Practice at 40 C.F.R. § 22.15(a) also require that Respondent serve an
15 additional copy of the Answer on EPA to the following person, who is authorized to receive
16 service related to this proceeding:

17 Nathaniel Boesch
18 Office of Regional Counsel
19 U.S. Environmental Protection Agency, Region 9
20 75 Hawthorne Street (mail code: ORC 2-3)
21 San Francisco, CA 94105
22 (415) 972-3926
23 boesch.nathaniel@epa.gov

24 38. In accordance with 40 C.F.R. § 22.15(b), the contents of the Answer must clearly and
25 directly admit, deny, or explain each of the factual allegations contained in the Complaint with
regard to which Respondent has any knowledge. Where Respondent has no knowledge of a
particular factual allegation and so states in his Answer, the allegation is deemed denied. Under
40 C.F.R. § 22.15(d), Respondent’s failure to admit, deny, or explain any material factual
allegation contained in this Complaint constitutes an admission of the allegation. The Answer
must also, in accordance with 40 C.F.R. § 22.15(b), state (1) the circumstances or arguments that

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1 are alleged to constitute the grounds of any defense, (2) the facts that Respondent disputes,
2 (3) the basis for opposing the proposed relief, and (4) whether a hearing is requested.

3 **B. Request for a Hearing**

4 39. In accordance with Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A), EPA
5 gives Respondent this written notice of the Complaint for penalties and compliance and of the
6 opportunity to request a hearing upon the issues raised by the Complaint and Answer, and on the
7 appropriateness of the relief sought in the Complaint. As provided under 40 C.F.R. § 22.15(c), if
8 Respondent wishes to request such a hearing, he must include the request in his Answer. Such
9 hearing shall not be subject to Section 554 or 556 of the Administrative Procedures Act, 5 U.S.C.
10 §§ 554 and 556, but shall provide a reasonable opportunity to be heard and to present evidence.
11 If a hearing is requested, Subpart I of the Rules of Practice, 40 C.F.R. Part 22, governs and sets
12 forth the procedures of such hearing.

13 40. Respondent's failure to affirmatively raise in the Answer facts that constitute or might
14 constitute grounds for his defense may preclude Respondent from raising such facts and/or from
15 having such facts admitted into evidence at a hearing.

16 **C. Default**

17 41. To avoid the Presiding Officer's entry of a default order pursuant to 40 C.F.R. § 22.17(a)
18 for a penalty up to \$337,725 and compliance, Respondent must file a written Answer with the
19 Regional Hearing Clerk in the manner described above.

20 42. Any penalty assessed in a default order will become due and payable by Respondent
21 without further proceedings 30 days after the default order becomes final. 40 C.F.R. § 22.17(d).
22 Similarly, any compliance required under a default order shall be effective and enforceable
23 without further proceedings on the date the default order becomes final. *Id.* If necessary, EPA
24 may then seek to enforce such final default order against Respondent, and seek to collect the
25 assessed penalty amount, which may be up to \$337,725, in federal court.

1 47. Respondent entering into a Consent Agreement would not extinguish, waive, satisfy, or
2 otherwise affect Respondent's obligation to comply with all applicable statutory and regulatory
3 requirements and legal orders.

4 **IX. APPEARANCES**

5 48. In accordance with 40 C.F.R. § 22.10, any party may appear in person or by counsel or
6 other representative. A partner may appear on behalf of a partnership and an officer may appear
7 on behalf of a corporation. Persons who appear as counsel or other representatives must conform
8 to the standards of conduct and ethics required of practitioners before the courts of the United
9 States.

10 Dated this 15th day of February, 2023

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12
13 **JOEL** Digitally signed by
14 **JONES** JOEL JONES
Date: 2023.02.15
11:25:37 -08'00'
15 Amy C. Miller-Bowen, Director
16 Enforcement and Compliance Assurance Division
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CERTIFICATE OF SERVICE

In the Matter of Acton Holding Trust
EPA Docket No. UIC-09-2023-0029

I certify that the foregoing Complaint, Notice of Proposed Penalty, and Notice of Opportunity for Hearing, was filed via email with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 9 at R9HearingClerk@epa.gov and that a true and correct copy of (1) the Complaint, Notice of Proposed Penalty, and Notice of Opportunity for Hearing; (2) the Consolidated Rules of Practice at 40 C.F.R. Part 22; (3) the EPA’s 1993 UIC Program Judicial and Administrative Order Settlement Penalty Policy; and (4) the Region 9 Regional Judicial Officer’s Standing Order dated May 14, 2020, was delivered in person by Skip N Serve Process Server Service to:

Eric Hauck, Trustee
Acton Holding Trust
12803 Autumn Leaves
Victorville, CA 92395

**CHRISTOPHER
CHEN**

 Digitally signed by CHRISTOPHER
CHEN
Date: 2023.02.15 13:09:39 -08'00'

Christopher Chen
Enforcement and Compliance Assurance Division, ECAD
U.S. EPA, Region 9
600 Wilshire Blvd, Suite 940
Los Angeles, CA 90017

In re: Eric Hauck, Acton Holding Trust

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