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EPA--REGION 10

**BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

ALASKA DEPARTMENT OF
TRANSPORTATION AND PUBLIC
FACILITIES,
Northern Region, Alaska

Respondent,

Northern Region, Alaska

DOCKET NO. SDWA 10-2013-0156

**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 with the Northern Region of the Alaska Department of Transportation and Public Facilities ("Respondent").

I. AUTHORITIES

1.1. This Consent Agreement & Final Order ("CAFO") is issued under the authority vested in the Administrator of the EPA under Section 1423(c) of the Safe Drinking Water Act ("SDWA" or "Act"), 42 U.S.C. § 300h-2(c).

1.2. 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.

1.3. In accordance with Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), 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 the Respondent hereby agrees to issuance of, the Final Order contained in Part V of this CAFO. Respondent waives its right, under SDWA § 1423(c)(3), 42 U.S.C. § 300h-2(c)(3), to a hearing on the issuance of this order.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.43, issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

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

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

III. ALLEGATIONS

3.1. Section 1422(c) of the Act, 42 U.S.C. § 300h-1(c), authorizes EPA to administer the Underground Injection Control (“UIC”) program in states without an approved state program. 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.

3.2. Section 1423(a)(2) of the Act, 42 U.S.C. § 300h-2(a)(2), grants EPA enforcement authority whenever the Administrator finds that any person subject to any requirement of any applicable UIC program is violating that requirement. EPA’s enforcement

authority includes commencing a civil action under Section 300h-2(b) of the Act, 42 U.S.C. § 1423(b), or issuing an administrative order to require compliance with UIC regulations, to assess penalties, or both under Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c).

3.3. Section 1445 of the Act, 42 U.S.C. § 300j-4, authorizes 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.

3.4. 40 C.F.R. § 144.17 authorizes EPA to 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.

3.5. 40 C.F.R. § 144.3 defines “person” as an “individual, association, partnership, corporation, municipality, State, Federal, or Tribal agency, or an agency or employee thereof.”

3.6. 40 C.F.R. § 144.3 defines “owner or operator” as “the owner or operator of any ‘facility or activity’ subject to regulation under the UIC program.”

3.7. 40 C.F.R. § 144.11 prohibits any underground injection, except as authorized by rule or permit under the UIC program.

3.8. 40 C.F.R. § 144.12 prohibits any injection activity that allows the movement of fluids containing any contaminant into an Underground Source of Drinking Water (“USDW”) 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.

3.9. 40 C.F.R. § 144.3 defines “USDW” as an aquifer or its portion, which supplies

any public water system; or which contains a sufficient quantity of ground water to supply a public water system; and currently supplies drinking water for human consumption or contains fewer than 10,000 mg/l total dissolved solids; and which is not an exempted aquifer.

3.10. 40 C.F.R. § 144.86(c) defines “ground water protection area” as a geographic area near and/or surrounding community and non-transient non-community water systems that use ground water as a source of drinking water. These areas receive priority for the protection of drinking water supplies.

3.11. 40 C.F.R. § 144.3 defines “injection well” as a “well” into which “fluids” are being placed.

3.12. 40 C.F.R. § 144.3 defines “well” as a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

3.13. 40 C.F.R. § 144.3 defines “fluid” as any material or substance which flows or moves whether in semisolid, liquid, sludge, gas, or any other form or state.

3.14. 40 C.F.R. § 144.3 defines “contaminant” as any physical, chemical, biological, or radiological substance or matter in water.

3.15. 40 C.F.R. § 144.6 defines the types of wells regulated under the UIC program. 40 C.F.R. Part 144, Subpart G defines the requirements for Class V wells. A motor vehicle waste disposal well is Class V well.

3.16. 40 C.F.R. § 144.81(16) defines a “motor vehicle waste disposal well” (“MVWDW”) as a well that receives or has received fluids from vehicular repair or maintenance activities, 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.

3.17. 40 C.F.R. §§ 144.87(b)(1) & 144.88(b)(1)(v) set out requirements for closing MVWDWs. Pursuant to 40 C.F.R. § 144.87(b)(1), States are required to identify all ground water protection areas by January 1, 2004. Pursuant to 40 C.F.R. §§ 144.87(b)(1) & 144.88(b)(1)(v), if a State fails to identify ground water protection areas by January 1, 2004, all MVWDWs in the State operational or under construction as of April 5, 2000, must be closed by January 1, 2005, in accordance with 40 C.F.R. § 144.89.

3.18. The State of Alaska failed to identify ground water protection areas in the State by January 1, 2004, and therefore all MVWDWs in Alaska operational or under construction as of April 5, 2000, must be closed by January 1, 2005. The State of Alaska did subsequently establish ground water protection areas after the January 1, 2004 deadline.

3.19. Respondent is a State agency and therefore meets the definition of a “person” under 40 C.F.R. § 144.3.

3.20. Respondent owns and/or operates the 35 MVWDWs (29 active and 6 temporarily abandoned) in Northern Alaska (collectively “the subject wells” located at the “Sites”) listed in Table 1 below.

Facility Name	Ground Water Protection Area	Active or Temporarily Abandoned
Dalton District		
Coldfoot Maintenance Station Shop	No	Active
Jim River	No	Active
Seven Mile Maintenance Station Shop and Bunkhouse	No	Active
Denali District		
Cantwell Shop	No	Active
Cantwell Shop (old)	No	Temporarily Abandoned
Healy Equipment Storage	No	Active
Livengood Shop (new)	No	Active
Livengood Shop (old)	No	Temporarily Abandoned
Manley Shop (Manley Hot Springs Maintenance Station) (M&O station)	Yes	Active
Nenana Shop	Yes	Active
Fairbanks District		
Birch Lake Warm Storage	No	Active
Central Shop (old)	No	Temporarily Abandoned
Fairbanks Cathouse (Peger Road Facility)(Warm Storage Building)	Yes	Active
Montana Creek Shop	No	Active
Tazlina District		
Chitina Maintenance Station Shop (old shop addition)	No	Active
Chitina New Shop	No	Active
Ernestine New Shop	No	Active
Gulkana Old Shop	Yes	Active
Nelchina Shop	No	Active
Paxson Maintenance Station	Yes	Active
Slana Maintenance Station	Yes	Active
Tazlina Maintenance Station	No	Active
Tok District		
Delta Maintenance Station Shop (Delta Junction Maintenance Station) (M&O shop)	Yes	Active
Delta Warm Storage (Delta Junction Maintenance Station Warm Storage)	Yes	Active
Eagle Maintenance Station	Yes	Active
Southfork Maintenance Station	No	Active
Tok Maintenance Station	Yes	Active
Trims Maintenance Station	No	Active
Valdez District		
Cordova Maintenance Station (13-mile shop)	No	Active

Facility Name	Ground Water Protection Area	Active or Temporarily Abandoned
Thompson Pass Old and New Shop	No	Active
Valdez APT (Storage 1)	Yes	Temporarily Abandoned
Valdez APT (Storage 2)	Yes	Temporarily Abandoned
Valdez APT (Storage 3)	Yes	Temporarily Abandoned
Western District		
Unalakleet SEF Shop	No	Active
St. Mary's Maintenance Station (SEF Shop)	No	Active

3.21. None of the MVWDWs described in Paragraph 3.20 are located within an aquifer exemption area.

3.22. All wells listed in Table 1 are subsurface fluid distribution systems that have received motor vehicle waste fluid.

3.23. Respondent has violated and continues to violate 40 C.F.R. § 144.87(b)(1)(i) and 40 C.F.R. § 144.88(b)(1)(v) because it failed to close the MVWDWs described in Paragraph 3.20 by January 1, 2005, in accordance with the closure requirements in 40 C.F.R. § 144.89.

3.24. Each well listed in Table 1 is a Class V MVWDW that has not been closed in accordance with 40 C.F.R. § 144.88(b)(1)(v) and 40 C.F.R. § 144.89; therefore, under Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. Part 19, Respondent is liable for civil penalties not to exceed \$11,000 per day for each day during which the violation for each well continued after March 15, 2004 through January 12, 2009, and not to exceed \$16,000 per day for each day during which the violation for each well continued after January 12, 2009.

IV. CONSENT AGREEMENT

Penalty

4.1. Pursuant to Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c)(1) EPA determined and Respondent agrees that an appropriate penalty to settle this action is in the amount of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000). This penalty amount has been determined in consideration of the statutory penalty factors identified in Section 1423(c)(4)(B) of the Act, 42 U.S.C. § 300h-2(c)(4)(B), including Respondent's cooperation with EPA's investigation of Respondent's MVWDWs.

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 thirty (30) days of the effective date of the Final Order.

4.3. Payment under this CAFO must be made by cashier's check, certified check or State warrant payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Respondent must note on the check the title and docket number of this action.

4.4. Respondent must serve photocopies of the check or warrant described in Paragraph 4.3, above, on the Regional Hearing Clerk and EPA Region 10 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, 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.

4.6. Should Respondent fail to pay any portion of the penalty assessed by this CAFO in full by its due date, Respondent shall also be responsible for payment of the following amounts:

4.6.1. Interest. Pursuant to SDWA Section 1423(c)(7), 42 U.S.C. § 300h-2(c)(7), any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.6.2. Costs and Attorneys Fees. Pursuant to SDWA Section 1423(c)(7), 42 U.S.C. § 300h-2(c)(7), should Respondent fail to pay the amount of the penalty assessed by the Final Order contained herein, EPA may bring a civil action in an appropriate district court to recover the assessed penalty plus costs, attorneys' fees, and interest.

Compliance Order

4.7. **Prohibition of Injection:** Respondent shall not inject any fluid into any of the subject wells except in compliance with this Order, a permit issued pursuant to UIC regulations, or an authorization by rule.

4.8. **Implementation of Well Closure Requirements:** Respondent shall implement the Well Closure requirements described in Paragraph 4.17.

4.9. **Notifications:**

a. Respondent shall provide EPA's Project Coordinator, identified in Paragraph 4.14, email notification no less than five days prior to commencement of any closure activity under this Order.

b. Respondent shall provide a copy of this Order to any contractor and/or consultant retained to perform any work described in this Order at least 48 hours prior to the initiation of such work. Respondent shall simultaneously provide EPA's Project Coordinator, identified in Paragraph 4.14, written notice that the notice required in this subparagraph was given. No contract between Respondent and a contractor and/or a consultant shall affect Respondent's obligation to comply fully with this Order.

c. In the event of any transfer of a subject well prior to the termination of this Order, Respondent shall provide a copy of this Order to any successor in ownership, control, operation, or any other interest in all or part of the subject wells, at least 30 days prior to the transfer. Respondent shall simultaneously provide EPA's Project Coordinator, identified in Paragraph 4.14, written notice that the notice required in this subparagraph was given. A transfer of property rights at any of the Sites will not affect

Respondent's obligation to comply fully with this Order.

4.10. **Site Access:** This Order does not affect EPA's authority to enter, inspect, sample, or monitor compliance under any law, permit, court order, or agreement. Respondent shall provide EPA or its authorized representatives access to the Sites upon reasonable notice. EPA or its authorized representatives will be permitted to move freely at the Sites and appropriate off-site areas to determine compliance with this Order and to conduct actions in accordance with this Order; provided that EPA and its representatives shall not unreasonably interfere with the operations of Respondent or its contractors, and shall comply with all reasonable job safety rules and requirements. A representative of Respondent may accompany EPA's representative at all times while on Respondent's premises.

4.11. **Site Data:** At EPA's request, Respondent shall provide access to all records and documentation related to the conditions at any of the Sites and to results or data pertaining to the contamination removal and mitigation activities conducted under this Order.

4.12. **Record Preservation:** Respondent shall preserve and retain, and shall instruct its consultant and other persons acting on its behalf, to preserve and retain all records and documents relating in any manner to the Requirements of Paragraph 4.17 for three years after termination of this Order. Upon termination of the three-year period, EPA may request Respondent to provide EPA with copies of any records and documents related to this Order or implementation of the Requirements of Paragraph 4.17. If EPA requests records and documents, Respondent shall, at no cost to EPA, but subject to a claim of privilege, provide EPA the original or copies of the records and documents within 30 days of EPA's request. If EPA makes no request at the end of the three-year period, Respondent may dispose of the

records and documents.

4.13. **Modification:** EPA may, after consultation with Respondent, make a preliminary determination that tasks in addition to those defined in the Requirements of Paragraph 4.17, including any approved modifications, are necessary to accomplish the Well Closure Requirements. EPA shall notify Respondent of preliminary determinations in writing, and Respondent shall have 14 days from receipt to submit a written response. Modifications of this Order, including oral modifications, shall be memorialized in writing and shall take effect only when agreed to in writing by all parties.

4.14. **Project Coordinator:**

- a. Anne Christopher is the EPA Project Coordinator who will oversee implementation of this Order. The Project Coordinator shall receive communications, which include, but are not limited to, all documents, reports, comments, approvals, and other correspondence submitted or exchanged under this Order. All submissions required by this Order shall be sent to:

Anne Christopher
U.S. Environmental Protection Agency
Ground Water Unit
1200 Sixth Avenue, Suite 900, OCE-082
Seattle, WA 98101
Ph: 206-553-8293
Fax: 206-553-6984
Email: christopher.anne@epa.gov

- b. Within 10 days of the effective date of this Order, Respondent must identify a project coordinator for purpose of receipt of all communication and implementation of this Order. The contact information for this project

coordinator must be sent to the EPA Project Coordinator identified above in Paragraph 4.14.a.

4.15. **Failure to comply:** Failure to timely and appropriately implement to EPA's satisfaction any element of the Requirements of Paragraph 4.17 shall be deemed a violation of this Order and the SDWA.

4.16. **Scope of Order:**

- a. This Order is not and shall not be construed to be a permit under the SDWA, nor shall it in any way relieve or affect Respondent's obligation under the SDWA, or any other applicable federal, state or local laws, regulations or permits.
- b. Full payment of the penalty amount in accordance with paragraph 4.1 and compliance with this Order shall not in any case affect the right of the EPA or the United States to pursue criminal sanctions for any violations of law. Full payment of the penalty amount in paragraph 4.1 shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in Part III of this CAFO.
- c. This Order shall in no way affect the rights of EPA or the United States against any person not a party to this Order.
- d. Nothing in this Order shall be deemed to constitute a precedent by any party for any future administrative order, consent decree or civil action relating to any of the Sites and/or any restoration work undertaken at any of the Sites.

4.17. **Well Closure and Reclassification Requirements:** Within 45 days of the

effective date of the Final Order, Respondent must submit a sampling and closure schedule for each of the 35 MVWDWs listed in Table 1, which includes the year sampling and closure work is scheduled to be completed. 21 of the 35 MVWDWs listed in Table 1 must be permanently closed or closed and reclassified in accordance with 40 C.F.R. §§ 144.82, 144.89(a) and 146.10(c) no later than December 31, 2016, and all 35 MVWDWs must be permanently closed or closed and reclassified no later than December 31, 2018. If a well currently disposes of motor vehicle waste and sanitary waste, it may be considered for reclassification to a well for disposal of sanitary waste only after the motor vehicle waste disposal portion of the well has been closed. All wells considered for reclassification must be sampled to determine whether additional steps will be required to meet the non-endangerment standard of 40 C.F.R. § 144.12 prior to reclassifying the well for other uses. To successfully implement the well closure and reclassification requirements of 40 C.F.R. §§ 144.88 and 144.89, Respondent must submit a Closure Plan for each of the 35 MVWDWs listed in Table 1 a minimum of 30 days before the planned closure activity. EPA recommends that Respondent submit closure plans for EPA review as early as possible before the proposed start date of the closure activities. Respondent must close or close and reclassify the first 21 MVWDWs no later than December 31, 2016 and all 35 MVWDWs no later than December 31, 2018. Respondent shall submit a Final Well Closure Report with documentation of all closure activity, including confirmatory sample results and waste manifests (*see* Paragraph 4.17.a.4), by March 31, 2017 for the first 21 wells and all 35 wells by March 31, 2019. Respondent must remove all contaminated materials to the extent practicable during the course of well closure, without jeopardizing existing highways, structures, utilities and facilities. Respondent must

comply with the following standards and requirements:

a. Well Closure:

1. For each well listed under Table 1, Respondent must submit a Class V Well Pre-Closure Notification Form (Attachment 1: EPA Form 7520-17) and a Closure Plan to EPA a minimum of 30 days before the planned closure activity. See Attachment 2: Closure Plan Guidance.
2. EPA reviews each Closure Plan and notifies Respondent regarding the results of review, including any additional requirements or recommendations.
3. Respondent must sample and close 21 wells by December 31, 2016 and all 35 wells by December 31, 2018, unless extended after consultation with the EPA project coordinator identified in paragraph 4.14 of this CAFO. Closure includes removal of the well and connection to the well, and contaminated liquids, sludge, and soil from in and around the injection well. The sample results will be compared to State of Alaska cleanup levels to determine whether the materials are contaminated at levels that endanger drinking water resources (and require additional work by Respondent).
4. Respondent must submit to EPA a Final Well Closure Report for 21 wells by March 31, 2017, and for all 35 wells by March 31, 2019, unless extended after consultation with the EPA project coordinator identified in paragraph 4.14 of this CAFO, which must include a narrative statement describing the closure procedures, photographic documentation of all closure

activities, and confirmatory sample results and waste manifests from the closures of the well, in accordance with Paragraph 4.17.

5. If contamination remains in the ground after the well closure, Respondent shall work with the Alaska Department of Environmental Conservation ("ADEC") to complete site closure in accordance with 18 AAC 75.325-390, and in accordance to a schedule established by ADEC's Contaminated Sites Program. Respondent's Final Well Closure Report must identify site circumstances that make it impracticable to complete the cleanup of contamination until a later date, describe the known nature and extent of the remaining contamination, and Respondent's plan and time frame for addressing the remaining contaminants and achieving site closure. If contaminated soil and/or groundwater cleanup is necessary, ADEC will oversee the cleanup and will work with the EPA to determine what additional work will be required to address the contamination.

6. EPA will review and approve or disapprove the Final Well Closure Report within six months of submission.

b. Well Reclassification:

1. If Respondent requests to reclassify a well that currently disposes of motor vehicle waste and sanitary waste to a well for disposal of sanitary waste only, the motor vehicle waste disposal portion of the well must first be closed and the injection point must be sampled according to the requirements above by December 31, 2016 if the well is included in the first group of 21 wells, or by

December 31, 2018 if the well is included in the second group of 14 wells. The sample results will be used to determine whether additional steps will be required to meet the non-endangerment standard of 40 C.F.R. § 144.12 prior to reclassifying the well for other uses.

2. Respondent must submit the Final Well Closure Report for the motor vehicle waste disposal portion of the well, including sampling results, and a proposal for reclassification to EPA for review by March 31, 2017 if the well is included in the first group of 21 wells, or by March 31, 2019 if the well is included in the second group of 14 wells.

3. EPA reviews sampling results and reclassification proposal and determines whether reclassification can be approved.

4. EPA notifies Respondent regarding decision to allow reclassification or to require closure.

5. If closure is required, Respondent will follow the well closure procedures.

c. *Performance Standards for Well Closure*: Closures of all Class V injection wells must be conducted in a manner that protects underground sources of drinking water and complies with all applicable laws and regulations related to removal of materials from the well and adjacent to the well: 40 C.F.R. §§ 144.12(a), 144.82, 144.89, and 146.10(c).

d. *Sampling Requirements*: Respondent must collect an end-point sample from each cleaned out motor vehicle waste disposal well, beneath the point

of discharge. Respondent must select each sampling location based on the construction of the injection well and likelihood of detecting any contaminants that were injected beneath the ground surface. Respondent must propose an appropriate location for sampling for each injection well to be closed. Respondent must analyze each end-point sample for the following constituents consistent with the prior use of this well for disposal of motor vehicle waste fluids:

1. Volatile organic compounds by the most current version of EPA Method 8260;
 2. Semivolatile organic compounds by EPA Method 8270; and
 3. Arsenic, cadmium, chromium, and lead by an EPA approved metals analysis method.
- e. Reporting Requirements: Within 45 days of the effective date of the Final Order, Respondent must submit a sampling and closure schedule for each of the 35 MVWDWs listed in Table 1. In addition to the Closure Plans and Final Well Closure Reports, Respondent must submit semi-annual reports documenting the progress made toward the milestones set forth in the Closure Plans provided by the Respondent. Each report should include the current status of all injection wells specified in Table 1. The report may be submitted electronically (via email to the EPA project coordinator identified in paragraph 4.14 of this CAFO) and may be submitted in table format, providing the name of the facility, well name or description, the current

status of the well closure (e.g. sampling conducted, waiting for laboratory results; or floor drain plugged, excavation of drainfield planned by specific date, etc.). The first report will cover the time period between the effective date of this CAFO and June 30, 2014; thereafter, all reports will cover January 1 through June 30, and July 1 through December 31 for each calendar year. The semi-annual reports must be sent to the EPA project coordinator within 45 days of the end of the semi-annual period of each year until all injection wells listed in Table 1 have been closed or reclassified.

The schedule of activities under the Requirements of Paragraph 4.17 is as follows:

Deliverables	Due Date
Sampling and Closure Schedule for each of the 35 MVWDWs	Within 45 days of the effective date of the Final Order
Class V Well Pre-Closure Notification Form and a Closure Plan to EPA for each well	A minimum of 30 days before the planned closure activity for the well
Semi-Annual Status Report covering effective date of the Final Order through June 30, 2014	August 15, 2014
Semi-Annual Status Report covering July 1, 2014, through December 31, 2014	February 15, 2015
Semi-Annual Status Report covering January 1, 2015, through June 30, 2015	August 15, 2015
Semi-Annual Status Report covering July 1, 2015, through December 31, 2015	February 15, 2016
Semi-Annual Status Report covering January 1, 2016, through June 30, 2016	August 15, 2016
Deadline to finish closure work for 21 wells	December 31, 2016
Semi-Annual Status Report covering July 1, 2016, through December 31, 2016	February 15, 2017
Final Well Closure Reports of all closure activities for 21 wells due	March 31, 2017
Semi-Annual Status Report covering January 1, 2017, through June 30, 2017	August 15, 2017
Semi-Annual Status Report covering July 1, 2017, through December 31, 2017	February 15, 2018
Semi-Annual Status Report covering January 1, 2018, through June 30, 2018	August 15, 2018

Deliverables	Due Date
Deadline to finish closure work for all 35 wells	December 31, 2018
Final Well Closure Reports of all closure activities for 35 wells due	March 31, 2019

4.18. ***Termination and Satisfaction:*** In accordance with Paragraph 4.8, Respondent shall submit to EPA the Final Well Closure Reports documenting the completion of all requirements described in Paragraph 4.17. Upon receipt of the final reports, EPA may schedule an inspection of any or all of the subject wells with Respondent and other interested state and/or federal agencies. After completion of the inspection, EPA will notify Respondent in writing whether the compliance with this Order is fully completed. EPA's Project Coordinator will provide this notification by telephone as promptly as possible, but not later than 30 days after the completion of an inspection. This Order shall terminate after Respondent pays the administrative penalty in accordance with this CAFO and EPA issues a written approval of Respondent's final reports.

General Provisions

4.19. For the purpose of this proceeding, Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

4.20. Respondent neither admits nor denies the specific factual allegations contained in Part III of this CAFO.

4.21. Except as described in Paragraph 4.6 of this CAFO, each party shall bear its own costs in bringing or defending this action.

4.22. 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.

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

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

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

DATED:

8/16/13

FOR RESPONDENT:



PATRICK J. KEMP, Commissioner
Alaska Department of Transportation and Public
Facilities

DATED:

9/5/2013

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 1423(c)(3) of the Act, 42 U.S.C. § 300h-2(c)(3), 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 1423(c)(6) of the Act, 42 U.S.C. § 300h-2(c)(6).

5.4. This Final Order shall become effective upon filing.

SO ORDERED this ^{25th} day of September, 2013.


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: Alaska Department of Transportation and Public Facilities Northern Region, DOCKET NO.: SDWA-10-2013-0156**, was filed, and served as follows, on the signature date below.

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

Endre M. Szalay
Office of Regional Counsel
U.S. 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, to:

Jeffrey P. Stark
Chief Assistant Attorney General
Transportation Section
State of Alaska Department of Law, Office of the Attorney General
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501-5903

26th Sept 2013
Dated



Candace Smith
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10

ATTACHMENT 1

United States Environmental Protection Agency

UIC Federal Reporting System

Class V Well Pre-Closure Notification Form

1. Name of facility: _____

Address of facility: _____

City/Town: _____ State: _____ Zip Code: _____

County: _____ Location: _____ Lat./Long.: _____

2. Name of Owner/Operator: _____

Address of Owner/Operator: _____

City/Town: _____ State: _____ Zip Code: _____

Legal contact: _____ Phone number: _____

3. Type of well(s): _____ Number of well(s): _____

4. Well construction (check all that apply):

 Drywell Septic tank Cesspool Improved sinkhole Drainfield/leachfield Other5. Type of discharge: _____

6. Average flow (gallons/day): _____ 7. Year of well construction: _____

8. Type of well closure (check all that apply):

 Sample fluids/sediments Clean out well Appropriate disposal of remaining fluids/sediments Install permanent plug Remove well & any contaminated soil Conversion to other well type Other (describe): _____

9. Proposed date of well closure: _____

10. Name of preparer: _____ Date: _____

Certification

I certify under the penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. (Ref. 40 CFR 144.32).

Name and Official Title (Please type or print)

Signature

Date Signed

INSTRUCTIONS FOR EPA FORM 7520-17

This form contains the minimum information that you must provide your UIC Program Director if you intend to close your Class V well. This form will be used exclusively where the EPA administers the UIC Program: AK, AS, AZ, CA, CO, DC, DE, HI, IA, IN, KY, MI, MN, MT, NY, PA, SD, TN, VA, VI, and on all Tribal Lands. If you are located in a different State or jurisdiction, ask the agency that administers the UIC Program in your State for the appropriate form.

If you are closing two or more Class V wells that are of similar construction at your facility (two dry wells, for example) you may use one form. If you are closing Class V wells of different construction (a septic system and a dry well, for example) use one form per construction type.

The numbers below correspond to the numbers on the form.

1. Supply the name and street address of the facility where the Class V well(s) is located. Include the City/Town, State (U.S. Postal Service abbreviation) and Zip Code. If there is no street address for the Class V well, provide the route number or locate the well(s) on a map and attach it to this form. Under "Location," provide the Latitude/Longitude of the well, if available.
2. Provide the name and mailing address of the owner of the facility, or if the facility is operated by lease, the operator of the facility. Include the name and phone number of the legal contact for any questions regarding the information provided on this form.
3. Indicate the type of Class V well that you intend to close (for example, motor vehicle waste disposal well or cesspool). Provide the number of wells of this well type at your location that will be closed.
4. Mark an "X" in the appropriate box to indicate the type of well construction. Mark all that apply to your situation. For example, for a septic tank that drains into a drywell, mark both the "septic tank" and "drywell" boxes. Please provide a generalized sketch or schematic of the well construction if available.
5. List or describe the types of fluids that enter the Class V well. If available, attach a copy of the chemical analysis results and/or the Material Safety Data Sheets for the fluids that enter the well.
6. Estimate the average daily flow into the well in gallons per day.
7. Provide the year that the Class V well was constructed. If unknown, provide the length of time that your business has been at this location and used this well.
8. Mark an "X" in the appropriate box(s) to indicate briefly how the well closure is expected to proceed. Mark all that apply to your situation. For example, all boxes except the "Remove well & any contaminated soil" and "Other" would be marked if: the connection of an automotive service bay drain leading to a septic tank and drainfield will be closed, but the septic system will continue to be used for washroom waste disposal only, and the fluids and sludge throughout the system will be removed for proper disposal, the system cleaned, a cement plug placed in the service bay drain and the pipe leading to the washroom connection, and the septic tank/drainfield remains open for septic use only. In this example, the motor vehicle waste disposal well is being converted to another well type (a large capacity septic system).
9. Self explanatory.
10. Self explanatory.

PLEASE READ . . .

The purpose of this form is to serve as the means for the Class V well owner or operator's notice to the UIC Director of his/her intent to close the well in accordance with Title 40 of the Code of Federal Regulations (40 CFR) Section 144.12(a). According to 40 CFR §144.86, you must notify the UIC Program Director at least 30 days prior to well closure of your intent to close and abandon your well. Upon receipt of this form, if the Director determines that more specific information is required to be submitted to ensure that the well closure will be conducted in a manner that will protect underground sources of drinking water (as defined in 40 CFR §144.3), the Director can require the owner/operator to prepare, submit and comply with a closure plan acceptable to, and approved by the Director.

Please be advised that this form is intended to satisfy Federal UIC requirements regarding pre-closure notification only. Other State, Tribal or Local requirements may also apply.

Paper Work Reduction Act Notice

The public reporting and record keeping burden for this collection of information is estimated to average 1.5 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information, adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including thorough the use of automated collection techniques to the Director, Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M. Street, S.W., Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

ATTACHMENT 2

Guidance for Underground Injection Control Class V Well Closures

EPA requires that closures of all Class V injection wells are conducted in a manner that protects underground sources of drinking water and complies with all applicable laws and regulations related to removal of materials from the well and adjacent to the well.

40 CFR §§ 144.12(a) and 144.82. Closures of motor vehicle waste disposal wells and large-capacity cesspools are conducted under additional regulations, including required notification to EPA a minimum of 30 days before the planned closure activity. 40 CFR §§ 144.88 and 144.89. EPA recommends that you submit closure plans for EPA review as early as possible before the proposed start date of the closure activities.

As a general matter, EPA is likely to approve a closure plan if it contains the following information. The information listed below is neither an exclusive nor exhaustive set of requirements. Closure plans are evaluated on a case-by-case basis and may necessitate additional information or requirements to receive EPA approval. Furthermore, the following list of information is not required in all circumstances to obtain EPA approval, nor does the list obviate a regulated entity from satisfying any other applicable statutory or regulatory requirements under the Safe Drinking Water Act. Rather, the listed information is intended to provide the regulated community guidance about what EPA may look for when evaluating a Class V well closure plan. (Please note that for sanitary systems where a connection to the sewer is not possible, EPA is likely to approve continued use of the sanitary system for disposal of sanitary waste only if sampling confirms that chemical contamination is cleaned out and you provide evidence that the non-sanitary waste discharge has permanently ended.):

- A. A schematic diagram displaying the injection well system that identifies all drains, piping, processing units such as oil/water separators or septic tanks, and final discharge mechanisms such as drywells, leachfields, log cribs, or open underground pipe. (The diagram can be drawn by hand or computer.)
- B. A description of all fluids which enter, or have entered, the Class V well.
- C. A statement indicating that the connections between all drains of concern and the injection well (cesspool, drywell, open pipe or leachfield) will be, or have been, verified.
- D. A description of plug emplacements (if applicable).
- E. A statement indicating that all contaminated liquids, sludge, and soil will be removed from in and around the Class V injection well until visibly clean soil is reached, or structural integrity of the excavation or buildings or other significant structures near the excavation, may be compromised.
- F. A description of on-site storage while awaiting proper disposal, of liquids, sludge, soil, and other materials removed from the Class V well system.
- G. A statement indicating that all wastes will be characterized for disposal purposes, in accordance with Federal, State, and local regulations.

H. A plan to collect an end-point sample from the cleaned out Class V well, below the point of discharge. The end-point sample should be analyzed according to well use and injectate constituents. A statement should be included indicating what analytical methods will be used. Recommended EPA methods are included below.

- For large capacity cesspool wells (20 or more people per day), which receive only sanitary waste, an end-point sample and analysis typically is not required.
- For motor vehicle waste disposal wells, the end-point sample should be analyzed for volatile organic compounds (EPA Method 8260), semi-volatile organic compounds (EPA Method 8270), and arsenic, cadmium, chromium, and lead by a total metals analysis.
- For industrial discharge wells, the end-point sample should be analyzed for contaminants present in the injectate (analyses may include testing for volatile organic compounds by EPA Method 8260; semi-volatile organic compounds by EPA Method 8270, metals, herbicides, pesticides, or other parameters).

I. An assurance that all backfill material is clean.

J. A statement indicating that a final report outlining the closure procedures, including all sampling results and waste disposal manifests will be submitted to:

U. S. Environmental Protection Agency Region 10
Ground Water Unit
1200 Sixth Avenue, Suite 900, OCE-082
Seattle, Washington 98101