

RECEIVED

13 MAR 26 PM 12:08

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

RECORDS CLERK
EPA--REGION 10

In the Matter of:

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

Respondent,

Southeast Region, Alaska

DOCKET NO. SDWA 10-2013-0047

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 Southeast 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 MVWDWs at two locations in Southeast Alaska (collectively “the subject wells” located at the “Sites”): the Skagway Maintenance Station and the Wrangell Maintenance Station.

3.21. Neither of the MVWDWs described in Paragraph 3.20 are located within an aquifer exemption area.

3.22. 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.

Skagway Maintenance Station

3.23. The Skagway Maintenance Station maintains an injection well that consists of floor drains that connect to an oil/water separator and drain field. The Skagway well is located in a ground water protection area.

3.24. The Skagway well is a subsurface fluid distribution system that uses floor drains to collect snowmelt, vehicle wash water, road dirt, and traces of oil and grease associated with vehicle maintenance that come from vehicle engine exteriors.

3.25. The Skagway well 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 continued after March 15, 2004 through January 12, 2009, and not to exceed \$16,000 per day for each day during which the violation continued after January 12, 2009.

Wrangell Maintenance Station

3.26. The Wrangell Maintenance Station maintained an injection well that consisted of floor drains that connected to an oil/water separator and log crib. The log crib was abandoned in place in 2002 when it was replaced with a holding tank. The Wrangell well is not located in a ground water protection area.

3.27. The Wrangell well was a subsurface fluid distribution system that used floor

drains to collect snowmelt, vehicle wash water, road dirt, and traces of oil and grease associated with vehicle maintenance that come from vehicle engine exteriors.

3.28. The Wrangell well was 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 continued after March 15, 2004 through January 12, 2009, and not to exceed \$11,000 per day for each day during which the violation 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 SIXTY-SEVEN THOUSAND DOLLARS (\$67,000). 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, the entire unpaid balance of the \$67,000 penalty and any accrued interest shall become immediately due and owing. Should such a failure to pay occur, Respondent may be subject to a civil action to collect the assessed penalty under the SDWA. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

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 thirty (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 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 Requirements:*** To successfully implement the well closure requirements, Respondent submitted a Closure Plan for the drain field and log crib at the Skagway and Wrangell Maintenance Stations on August 2, 2012. Respondent closed the MVWDWs at the Skagway and Wrangell Maintenance Stations in accordance with 40 C.F.R. §§ 144.82, 144.89 and 146.10(c) in October 2012. By **January 31, 2013**, Respondent shall submit a Final Well Closure Report with documentation of all closure activity for the subject wells, including confirmatory sample results and waste manifests (*see* Paragraph 4.17.a.4). 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 the drain field and log crib at the Skagway and Wrangell

Maintenance Stations, Respondent submitted a Closure Plan to EPA on August 2, 2012.

2. EPA reviewed and conditionally approved the Closure Plans on August 30, 2012.

3. Respondent closed the wells in October 2012. Closure includes removal of the well and connection to the well, contaminated liquids, sludge, and soil from in and around the injection wells. 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 the wells by **January 31, 2013**, 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 drain field and log crib at the Skagway and Wrangell Maintenance Stations, in accordance with Paragraph 4.18.

5. If contamination remains in the ground after the well closure, Respondent shall work with 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 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. 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).
- c. 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.
- d. Reporting Requirements: Respondent submitted a Closure Plan to EPA for the drain field and log crib at the Skagway and Wrangell Maintenance Stations on August 2, 2012. By **January 31, 2013**, Respondent must submit to EPA's Project Coordinator, identified in Paragraph 4.14, the Final Well Closure Reports for the subject wells.

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

Deliverables	Due Date
Closure Plan for Skagway and Wrangell Maintenance Stations	Submitted on August 2, 2012
Closure work for all wells	Completed in October 2012
Final Well Closure Reports of all closure activities due	January 31, 2013

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 Paragraph 4.3 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:

1/25/13

FOR RESPONDENT:



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

DATED:

2/5/2013

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement

V. FINAL ORDER

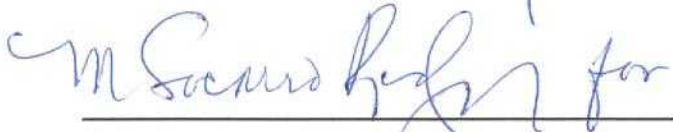
5.1. The terms of the foregoing Parts I-IV are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the foregoing terms of the settlement.

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

SO ORDERED this ^{26th} day of March, 2013.



THOMAS M. JAHNKE
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, Southeast Region, DOCKET NO.: CWA-10-2013-0047**, was filed, and served as follows, on the signature date below.

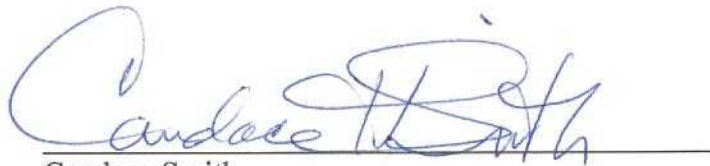
The undersigned certifies that a true and correct copy of the document was delivered to:

Endre M. Szalay, Esquire
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, Esquire
Chief Assistant Attorney General
State of Alaska Department of Law, Office of the Attorney General
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501-5903

26th March 2013
Dated


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