

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219  
BEFORE THE ADMINISTRATOR

Received by  
EPA Region 7  
Hearing Clerk

IN THE MATTER OF	)	
	)	
	)	PROOF OF SERVICE
MICHAEL ZAHNER	)	
	)	
and	)	Docket No. CWA-07-2022-0141
ZAHNER MANAGEMENT	)	
COMPANY, LLC	)	
	)	
Respondents	)	
	)	
Proceedings under Section 309(g) of the	)	
Clean Water Act, 33 U.S.C. § 1319(g)	)	
_____	)	

A Complaint and Notice of Opportunity for Hearing (“Complaint”) was filed in this matter on September 28, 2022. A copy of the Complaint and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation / Termination or Suspension of Permits, 40 C.F.R. Part 22, were sent by certified mail to Michael Zahner as Respondent and as Respondent Zahner Management Company, LLC’s Registered Agent. Despite an apparent failure in the USPS delivery and/or tracking system, Mr. Zahner confirmed he received the documents on October 7, 2022. A copy of the certified mail receipts, USPS tracking, and Respondent’s confirmation of receipt are attached to this filing.

RESPECTFULLY SUBMITTED this 24th day of October, 2022.

\_\_\_\_\_  
Shane E.C. McCoin  
Assistant Regional Counsel

7014 1200 0000 6116 7969

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Postage	\$	<b>SEP 29 2022</b>	Postmark Here
Certified Fee			
Return Receipt Fee (Endorsement Required)			
Restricted Delivery Fee (Endorsement Required)			

Total P **Mr. Michael Zahner**  
**200 Zahner Place**  
**Perryville, MO 63775**

Sent To \_\_\_\_\_  
 Street, A, \_\_\_\_\_  
 or PO Bo \_\_\_\_\_  
 City, State \_\_\_\_\_

7014 1200 0000 6116 7952

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Postage	\$	<b>SEP 29 2022</b>	Postmark Here
Certified Fee			
Return Receipt Fee (Endorsement Required)			
Restricted Delivery Fee (Endorsement Required)			

Total P **Registered Agent**  
**Zahner Management Company, LLC**  
**26 North Jackson Street**  
**Perryville, MO 63775**

Sent To \_\_\_\_\_  
 Street, A, \_\_\_\_\_  
 or PO Bo \_\_\_\_\_  
 City, State \_\_\_\_\_

Tracking Number:

[Remove X](#)

## 7014120000061187952

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Feedback

### Latest Update

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility.

Delivered

Out for Delivery

Preparing for Delivery

### Moving Through Network In Transit to Next Facility

October 6, 2022

### Departed USPS Regional Facility

SAINT LOUIS MO DISTRIBUTION CENTER  
October 2, 2022, 4:31 pm

### Arrived at USPS Regional Facility

SAINT LOUIS MO DISTRIBUTION CENTER  
October 1, 2022, 6:34 pm

### Arrived at USPS Regional Facility

KANSAS CITY MO DISTRIBUTION CENTER  
September 29, 2022, 8:54 pm

[Hide Tracking History](#)

Text & Email Updates



USPS Tracking Plus®



Product Information



See Less ^

Tracking Number:

Remove X

**7014120000061187969**

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Feedback

### Latest Update

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility.

Delivered

Out for Delivery

Preparing for Delivery

### Moving Through Network

**In Transit to Next Facility**

October 6, 2022

**Departed USPS Regional Facility**

SAINT LOUIS MO DISTRIBUTION CENTER

October 2, 2022, 4:31 pm

**Arrived at USPS Regional Facility**

SAINT LOUIS MO DISTRIBUTION CENTER

October 1, 2022, 6:34 pm

**Arrived at USPS Regional Facility**

KANSAS CITY MO DISTRIBUTION CENTER

September 29, 2022, 8:51 pm



**Hide Tracking History**

**See More**

Track Another Package

Enter tracking or barcode numbers

## Need More Help?

Contact USPS Tracking support for further assistance.

**FAQs**

Feedback

**From:** [Ford, Bill](#)  
**To:** [McCain, Shane](#); [Ford, Bill](#)  
**Cc:** [shanna.mccormack@lathrogpm.com](mailto:shanna.mccormack@lathrogpm.com)  
**Subject:** RE: Zahner - confirmation of service  
**Date:** Friday, October 21, 2022 7:45:47 AM  
**Attachments:** [imagebebecb.PNG](#)

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Shane,

My client believes he received the documents by mail on October 6 or 7. As you note he learned of the documents from his former counsel on September 29. For ease of compliance, what date will EPA use for calculation of our response?

Thanks.

Sent from my Verizon, Samsung Galaxy smartphone

**Bill Ford**

Partner  
Lathrop GPM LLP  
2345 Grand Blvd., Suite 2200  
Kansas City, MO 64108-2618  
Direct: 816.460.5817  
Mobile: 816.547.7388  
[bill.ford@lathrogpm.com](mailto:bill.ford@lathrogpm.com)  
[lathrogpm.com](http://lathrogpm.com)

----- Original message -----

From: "McCain, Shane" <[mccoin.shane@epa.gov](mailto:mccoin.shane@epa.gov)>  
Date: 10/20/22 1:22 PM (GMT-05:00)  
To: "Ford, Bill" <[bill.ford@lathrogpm.com](mailto:bill.ford@lathrogpm.com)>  
Cc: "McCormack, Shanna L." <[shanna.mccormack@lathrogpm.com](mailto:shanna.mccormack@lathrogpm.com)>  
Subject: Zahner - confirmation of service

Bill,

I wanted to confirm the date of receipt by your client of both the UAO and Complaint. Could you please reply to provide me with a confirmation of the date?

As an explanation, this turns out to be a very unusual situation. I would like to confirm actual service because the certified mail has apparently been lost. We sent the Complaint, copy of Part 22, and UAO to Respondent by certified mail and by email to Respondent's former attorney. I believe Respondent actually received the documents from his former attorney, and I believe you are already using that date of service to calculate your deadlines. I have been tracking the certified mailings,

which we sent to two addresses – one we have for Respondent as himself and one listed with the Missouri Secretary of State for the registered agent of Zahner Management Company LLC. The USPS tracking shows that they are still “moving through network” after leaving St. Louis (see attached). The post office in Perryville confirmed they have not received them.

I need to file a proof of service with the Regional Hearing Clerk as required by 40 CFR 22.5(b)(1)(iii). I propose to file the certified mail receipts (showing we placed it in the mail) and a copy of the email I am requesting from you with the date your client received the documents.

Please let me know if you would like to discuss. Thank you in advance for your understanding and cooperation.

Shane

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I delivered this Proof of Service to the Regional Hearing Clerk, United States Environmental Protection Agency, by electronic mail to: R7\_Hearing\_Clerk\_Filings@epa.gov.

I further certify that on the date noted below I sent by first class mail a true and correct copy of the Proof of Service to the Respondents:

Michael Zahner  
Respondent and Registered Agent  
Zahner Management Company  
200 Zahner Place  
Perryville, Missouri 63775

I further certify that on the date noted below I sent by electronic mail a true and correct copy of the Proof of Service to representatives for Respondents:

Bill Ford  
bill.ford@lathrogpm.com

Shanna McCormack  
shanna.mccormack@lathrogpm.com

---

Signature