

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

|                            |   |                   |
|----------------------------|---|-------------------|
| In the Matter of:          | ) | DOCKET NO.        |
|                            | ) | SDWA-10-2025-0049 |
| WILLIAM PETERSON III d/b/a | ) |                   |
| BIRDHOUSE GARAGE,          | ) | COMPLAINT         |
|                            | ) |                   |
| Bird Creek, Alaska         | ) |                   |
|                            | ) |                   |
| Respondent.                | ) |                   |

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**I. STATUTORY AUTHORITY**

1.1. This administrative complaint (“Complaint”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA” or “Complainant”) by Section 1423(c) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300h-2(c). The Administrator has delegated this authority to the Regional Administrator of EPA Region 10, who in turn has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division in EPA Region 10.

1.2. Pursuant to SDWA Section 1423(c)(1), 42 U.S.C. § 300h-2(c)(1), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, the EPA hereby proposes the assessment of a civil penalty against William Peterson III d/b/a Birdhouse Garage (“Respondent”) for violations of the SDWA.

**II. STATUTORY AND REGULATORY BACKGROUND**

2.2. The SDWA, 42 U.S.C. §§ 300f-300j, was enacted by Congress in 1974 to protect public health by regulating the nation’s drinking water sources.

2.3. Many of the nation's public water systems rely on underground sources of water for their supply. Underground injection wells, including motor vehicle waste disposal wells ("MVWDWs"), pose a risk to the public because they can contaminate underground drinking water sources and the public water systems that use those sources.

2.4. Accordingly, Congress enacted Part C of the SDWA, 42 U.S.C. §§ 300h to 300h-8, which addresses the regulation of underground injection wells.

2.5. SDWA Section 1422(b), 42 U.S.C. § 300h-1(b), permits the EPA to delegate primary enforcement responsibility over underground injection wells to a state that submits to the EPA a UIC program application that meets the minimum federal requirements.

2.6. SDWA Section 1422(c), 42 U.S.C. § 300h-1(c), requires the EPA to prescribe and implement the UIC program in a state if that state fails to submit to the EPA a UIC program application that meets the minimum federal requirements.

2.7. The State of Alaska has not submitted an acceptable UIC Class V program application to the EPA, and, therefore, the EPA directly implements the UIC Class V program in Alaska. 40 C.F.R. § 144.83(a)(1).

2.8. SDWA Section 1421, 42 U.S.C. § 300h, requires the EPA to promulgate regulations including permitting requirements as well as inspection, monitoring, recordkeeping, and reporting requirements for state UIC programs. 42 U.S.C. §§ 300h(a) and (b).

2.9. Accordingly, the EPA promulgated UIC regulations, which are found at 40 C.F.R. §§ 144.1 et seq.

2.10. The SDWA's UIC program regulates underground injection by six classes of wells, and all owners or operators of such wells must be authorized either by permit or by rule. 40 C.F.R. § 144.1(g).

2.11. Class V injection wells are shallow wells used to place a variety of fluids directly beneath the land surface. 40 C.F.R. § 144.80(e).

2.12. MVWDWs are Class V wells that receive or have received fluids from vehicular repair or maintenance activities, such as an auto body 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. 40 C.F.R. § 144.81(16). Fluids disposed in these wells may contain organic and inorganic chemicals in concentrations that exceed the maximum contaminant levels established by federally mandated primary drinking water regulations. The fluids also may contain waste petroleum products, heavy metals, semi-volatile and volatile organic compounds, which pose risks to human health.

2.13. Class V injection wells are authorized by rule under 40 C.F.R. § 144.24(a) subject to the conditions in 40 C.F.R. § 144.84.

2.14. However, new MVWDWs were prohibited/no longer authorized by rule as of April 5, 2000. 40 C.F.R. §§ 144.25(a)(2), 144.84(b)(2), 144.85(c), 144.88(b)(2).

2.15. In addition, injection into Class V wells is prohibited under 40 C.F.R. § 144.24(c)(3) upon failure to submit inventory information including the facility name and location, legal contact, ownership, nature, and type of injection well, and operating status of injection well in a timely manner under 40 C.F.R. §§ 144.26, 144.83.

2.16. Injection into Class V wells is further prohibited under 40 C.F.R. §§ 144.12(a), 144.82(a)(1), and SDWA Section 1421(d)(2), 42 U.S.C. § 300h(d)(2), if the injection allows movement of fluids containing any contaminant into an underground source of drinking water if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 C.F.R. Part 141 or otherwise adversely affect the health of persons.

2.17. A “contaminant” is any physical, chemical, biological, or radiological substance or matter in water. SDWA Section 1401(6), 42 U.S.C. § 300f(6); 40 C.F.R. § 144.3.

2.18. An “injection well” is a well into which fluids are being injected. 40 C.F.R. § 144.3.

2.19. An “owner or operator” is the owner or operator of any facility or activity subject to regulation under the UIC program. 40 C.F.R. § 144.3.

2.20. “Person” means an individual, association, partnership, corporation, municipality, State, Federal, or Tribal agency, or an agency or employee thereof. SDWA Section 1401(12), 42 U.S.C. § 300f(12); 40 C.F.R. § 144.3.

2.21. A “public water system” is “a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals.” SDWA Section 1401(4), 42 U.S.C § 300f(4), and 40 C.F.R. § 141.2.

2.22. An “underground source of drinking water (“USDW”)” is an aquifer or its portion which supplies any public water system; or which contains enough groundwater to supply a public water system and (i) currently supplies drinking water for human consumption or (ii) contains fewer than 10,000 mg/l total dissolved solids; and which is not an exempted aquifer. 40 C.F.R. § 144.3. The EPA has determined that any aquifer yielding more than 1 gallon per minute can be expected to provide sufficient quantity of groundwater to serve a public water system.

2.23. “Well injection” means the subsurface emplacement of fluids through a well. 40 C.F.R. § 144.3.

2.24. SDWA Section 1423(a)(2), 42 U.S.C. § 300h-2(a)(2), grants the EPA enforcement authority whenever the Administrator finds that any person subject to any requirement of any applicable UIC program is violating that requirement. SDWA Section 1423(c), 42 U.S.C. § 300h-2(c)(1), grants the EPA authority to seek a civil penalty of not more than \$10,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of \$125,000.

2.25. Under the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. No. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. No. 104-134, Sec. 31001(s)), the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note), as reflected in the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and SDWA Section 1423(c)(1), 42 U.S.C. § 300h-2(c)(1), the EPA may seek administrative civil penalties of \$28,619 per day per violation of an applicable UIC program, up to a maximum of \$357,729, for violations after November 2, 2015, and assessed on or after January 8, 2025. 40 C.F.R. § 19.4.

2.26. 40 C.F.R. § 22.1(a)(9) states, *inter alia*, that the Consolidated Rules of Practice govern all administrative adjudicatory proceedings for the assessment of any administrative civil penalty under SDWA Section 1423(c), 42 U.S.C. § 300h-2(c). 40 C.F.R. §§ 22.50 and 22.51 state that the Presiding Officer for administrative adjudicatory proceedings for the assessment of any administrative civil penalty under SDWA Section 1423(c), 42 U.S.C. § 300h-2(c), shall be a Regional Judicial Officer.

### **III. ALLEGATIONS**

3.1 Respondent is an individual and is therefore a “person” within the meaning of SDWA Section 1401(12), 42 U.S.C. § 300f(12) and its accompanying regulations, 40 C.F.R. § 141.3.

3.2 Since at least 2007 onward, Respondent has been the “owner” and/or “operator” of the property known as Birdhouse Garage, located at 29521 Seward Highway in Bird Creek, Alaska (the “Site”). 40 C.F.R. § 144.3.

3.3 The Site includes, or at times relevant to this action included, a vehicle maintenance shop constructed no later than 2007, in which Respondent performs or performed maintenance and repairs on motor vehicles.

3.4 The vehicle maintenance shop has or at times relevant to this action had, a floor drain included between two automobile bays that connects or previously connected to a four-inch drain line, which connects or previously connected to a septic tank located approximately 60 to 80 feet southeast of the Site in a public right-of-way. The septic tank drains, or previously drained, into the surrounding soil, and its contents likely reach, or previously likely reached, groundwater. The shop’s floor drain was connected to the septic tank at the time of construction around 2007.

3.5 To the best of the EPA’s knowledge and belief, the vehicle maintenance shop is, or at times relevant to this action was, the only building connected to the septic tank.

3.6 On May 12, 2014, the EPA requested that Respondent provide consent for EPA representatives to enter and inspect the Site for a possible MVWDW and Respondent declined to provide that consent.

3.7 In November 2020, the EPA was notified by the Alaska Department of Environmental Conservation (“ADEC”) of multiple public complaints regarding a possible MVWDW at the Site, which included photographs showing petroleum within the Site’s septic tank in the public right-of-way. The Municipality of Anchorage also notified the EPA of concerns regarding the Site.

3.8 On November 10, 2020, representatives from the EPA and the Municipality of Anchorage visited the right-of-way south of the Site and located the septic tank. Inspectors opened the lid of the septic tank, observed a heavy odor of hydrocarbons, and took photos of an oily sheen and likely hydrocarbons exiting the septic tank.

3.9 A Municipality of Anchorage inspector sampled liquid exiting the septic tank. The sampling results showed exceedances of Alaska cleanup standards for polycyclic aromatic hydrocarbons and volatile organic compounds—contaminants that frequently are associated with motor vehicle repair activities—ranging from greater than three (3) to 243 times groundwater cleanup levels protective of human health.

3.10 During the EPA’s visit of the right-of-way south of the Site on November 10, 2020, the EPA’s representative contacted an individual identifying themselves as being related to the Respondent. The EPA representative requested consent to inspect the Site. The individual identifying themselves as being related to the Respondent informed the EPA representative that they would inform Respondent about the request and that Respondent would call the EPA representative to schedule a time for an inspection. The EPA did not receive a call from Respondent to schedule a time for the inspection.

3.11 On February 23, 2021, the U.S. District Court for the District of Alaska granted the EPA’s application for an administrative warrant to enter and inspect the Site.

3.12 On March 24, 2021, the EPA and ADEC conducted an inspection of the Site. An EPA inspector observed a floor drain located between the two bays where vehicles undergo repair. The inspector observed staining on the floor between the two automobile bays, where one vehicle was undergoing repair.

3.13 The EPA inspector observed clear liquid and brown-colored liquid resembling used oil floating around the floor drain inside the garage.

3.14 The EPA inspector additionally observed various automotive products in the garage, such as antifreeze, motor oil, cleaners, and products associated with car detailing. The inspector also saw aerosols, such as paints and lubricants, and a five-gallon tank of Methyl Ethyl Ketone.

3.15 On July 12, 2022, the EPA sent Respondent a proposed Administrative Order (the “Order”) along with a cover letter explaining that the EPA was proposing to issue the Order and a notice that Respondent could request a hearing to object to the Order.<sup>1</sup>

3.16 The EPA also provided public notice of the Order by publishing it on its website and providing a 30-day comment period.

3.17 Respondent did not request a hearing on the Order.

3.18 The EPA did not receive any public comments on the Order.

3.19 On August 15, 2022, the EPA issued the Order to Respondent. The Order became effective 30 days later, on September 15, 2022.

3.20 Respondent did not appeal the Order.

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<sup>1</sup> The process of “proposing” the Order prior to issuance was done in compliance with SDWA Section 1423(c)(3), 42 U.S.C. § 300h-2(c)(3).



3.21 The Order required Respondent to properly close the MVWDW and sample surrounding soils and required Respondent to notify the EPA of their intent to comply with the Order within ten (10) business days of the Order's effective date, or September 29, 2022.

3.22 Respondent did not notify the EPA of his intent to comply with the Order and has not complied with the Order.

3.23 On June 15, 2023, Respondent granted consent for an EPA inspector to inspect the Site. During that inspection, the inspector observed that the floor drain had a solid steel sheet that appeared to be welded over the top of the floor drain. Respondent informed the EPA inspector that he had installed that steel sheet approximately one year prior to that inspection. During that inspection, Respondent also informed the EPA inspector that he had removed the septic tank connected to the floor drain within the shop.

3.24 On July 17, 2023, the EPA visited the right-of-way south of the Site and located the septic tank connected to the floor drain within the shop. As stated in Paragraph 3.23 of this Complaint, on June 15, 2023 Respondent informed the EPA inspector that the same septic tank had been removed. The EPA inspector opened the lid of the septic tank, observed a heavy odor of hydrocarbons, and took photos of an oily sheen within the septic tank.

3.25 On October 11, 2023, the EPA visited the right-of-way south of the Site and could not locate the septic tank previously connected to the floor drain within the shop. The area previously containing the septic tank appeared to have been subject to recent earthwork.

3.26 The aquifer into which the Site injects and/or has injected contains a sufficient quantity of groundwater to supply a public water system.

3.27 The aquifer into which the Site injects and/or has injected currently supplies water for human consumption. There is a drinking water well approximately 80 to 100 feet from the MVWDW, and to the best of the EPA's knowledge, Respondent drinks water from the well.

3.28 The aquifer into which the Site injects and/or has injected is not an exempted aquifer pursuant to 40 C.F.R. § 144.3.

3.29 The injection well at the Site exists, or at times relevant to this action existed, for the purpose of underground injection of fluids and is therefore a Class V injection well. 40 C.F.R. §§ 144.3, 144.6, 144.81, and 146.5.

3.30 As the "owner" and/or "operator" of a Class V injection well, Respondent is subject to regulation under the UIC program. 40 C.F.R. § 144.3.

3.31 The injection well at the Site receives fluids from vehicular body repair or maintenance activities and, therefore, is a MVWDW. 40 C.F.R. § 144.81(16).

3.32 The injection well at the Site overlays the regional aquifer system and is not within the area of an exempted aquifer. 40 C.F.R. § 146.4.

3.33 The aquifer system underneath the Site is a USDW. 40 C.F.R. § 144.3.

3.34 The injection activities from the injection well at the Site allowed the movement of fluid containing contaminants into a USDW, such that the presence of those contaminants may cause a violation of a primary drinking water regulation or may otherwise adversely affect the health of persons

3.35 Therefore, Respondent operated, maintained, and/or conducted injection activity in a manner that allowed the movement of fluid containing contaminants into a USDW, such that the presence of those contaminants may cause a violation of a primary drinking water regulation

or may otherwise adversely affect the health of persons, in violation of 40 C.F.R. §§ 144.12(a) and 144.82(a)(1).

3.36 Additionally, Respondent constructed and operated a Class V MVWDW despite the construction and operation of such wells being prohibited after April 5, 2000, in violation of 40 C.F.R. §§ 144.84(b)(2) and 144.88(b)(2).

#### **IV. PROPOSED PENALTY**

4.1. Based on the foregoing allegations, Respondent violated the SDWA and 40 C.F.R. §§ 144.12(a), 144.82(a)(1), 144.84(b)(2), and 144.88(b)(2). Consequently, pursuant to SDWA Section 1423(c)(1), 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. Part 19, Respondent is liable for the administrative assessment of civil penalties for violations in an amount not to exceed \$28,619 per day per violation, up to a maximum administrative civil penalty of \$357,729.

4.2. Beginning on at least November 10, 2020, through at least June 15, 2022, Respondent operated, maintained, and/or conducted injection activity in a manner that allowed the movement of fluid containing contaminants into a USDW, such that the presence of those contaminants may cause a violation of a primary drinking water regulation or may otherwise adversely affect the health of persons, in violation of 40 C.F.R. §§ 144.12(a) and 144.82(a)(1). Additionally, Respondent constructed and operated a Class V MVWDW despite the construction and operation of such wells being prohibited after April 5, 2000, in violation of 40 C.F.R. §§ 144.84(b)(2) and 144.88(b)(2).

4.3. Each day that Respondent operated, maintained, and/or conducted injection activity in a manner that allowed the movement of fluid containing contaminants into a USDW, such that the presence of those contaminants may cause a violation of a primary drinking water regulation or may otherwise adversely affect the health of persons, is a violation of 40 C.F.R.

§§ 144.12(a) and 144.82(a)(1). Additionally, each day that Respondent operated a Class V MVWDW despite the construction and operation of such wells being prohibited after April 5, 2000, is a violation of 40 C.F.R. §§ 144.84(b)(2) and 144.88(b)(2). Therefore, the Respondent has been in violation of the SDWA for over 580 days.

4.4. In accordance with 40 C.F.R. § 22.14(a)(4)(ii), Complainant proposes that a Final Order be issued to Respondent assessing an administrative penalty in an amount not to exceed \$357,729 taking into account (i) the seriousness of the violations; (ii) the economic benefit (if any) resulting from the violations; (iii) any history of such violations; (iv) any good-faith efforts to comply with the applicable requirements; (v) the economic impact of the penalty on the violator; and (vi) such other matters as justice may require. SDWA Section 1423(c)(4)(B), 42 U.S.C. § 300h-2(c)(4)(B).

4.5. *Seriousness of the Violations:* As described above, the contaminants injected by Respondent were sampled by a Municipality of Anchorage inspector as the contaminants were exiting the septic tank connected to the floor drain within the shop. The sampling results showed exceedances of Alaska cleanup standards<sup>2</sup> for polycyclic aromatic hydrocarbons and volatile organic compounds—contaminants that frequently are associated with motor vehicle repair activities—ranging from greater than three (3) to 243 times groundwater cleanup levels protective of human health. The purpose of these standards, as established by ADEC, is to protect public health from the risks associated with certain contaminants in drinking water. The amount by which the contaminants stemming from Respondent’s injection activities exceeded

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<sup>2</sup> See 18 Alaska Admin. Code § 75.345.

those standards should be a considered a very serious violation, and one with potentially significant public health consequences.

4.6. The date range identified by the EPA within this Complaint when injection activities allegedly occurred – November 10, 2020 – June 15, 2022 – is an extremely conservative allegation and this conservatism is being applied solely for the purposes of this Complaint and in an interest in illustrating the EPA’s reasonableness to this Tribunal. The date range starts on the day that the EPA and the Municipality of Anchorage documented the clear presence of motor vehicle waste within the septic tank connected to the floor drain within the shop and ends one year prior to the EPA inspection on June 15, 2023. During that inspection, Respondent articulated to the EPA that the steel plate covering the shop’s floor drain had been installed approximately one year prior. Given that Respondent allegedly constructed the Site’s MVWDW in 2007 and, to the best of the EPA’s knowledge and belief, had been performing vehicle maintenance activities starting around that time, injection activities very likely were occurring in advance of November 10, 2020. In fact, the EPA was aware of possible unauthorized injection into a MVWDW as early as May 2014, but unsuccessfully sought consent from Respondent to inspect the Site during that time. Additionally, during the June 15, 2023, EPA inspection, Respondent informed the EPA inspector that the septic tank connected to the floor drain within the shop had been removed. However, during a follow-up visit to the public right-of-way a month later, the EPA discovered that the septic tank had not been removed. As a result, the date identified by Respondent for the installation of the steel plate over the shop’s floor drain should be met with some skepticism. However, even giving Respondent the benefit of the doubt about the identified date range identified in this Complaint, significant harm to groundwater likely occurred over the course of these 19 months.

4.7. All new or converted MVWDWs were prohibited after April 5, 2000.<sup>3</sup> Seven years later, Respondent allegedly constructed the MVWDW at the Site. As a result, in addition to the seriousness of the harm that can be caused by the injection of these contaminants at the levels illustrated by the sampling referenced above on November 10, 2020, the injection activities were into a type of injection well explicitly banned by the EPA because of the significant, negative public health effects that they were having on groundwater throughout the United States.<sup>4</sup> Respondent's long-term injection activities into a type of well that has been banned for 2 ½ decades further elevates the seriousness of the violations from a public health perspective and undermines the integrity of the underground injection control program in its entirety.

4.8. *Respondent's Economic Benefit:* Respondent very likely avoided costs associated with proper disposal of the contaminants that were unlawfully injected into the MVWDW. Additionally, once the MVWDW was unlawfully constructed, Respondent likely obtained an economic benefit in the form of delayed costs associated with delays in properly closing the MVWDW as was required. Limited cooperation by Respondent during pre-filing discussions also reduces the EPA's ability to fully understand the likely scope of economic benefit obtained by the Respondent through his illegal activities.

4.9. *Respondent's History of Prior Violations:* The EPA is unaware of prior violations by Respondent.

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<sup>3</sup> See 40 C.F.R. § 144.88(b)(2).

<sup>4</sup> See 64 Fed. Reg. 68546 (Dec. 7, 1999) (Revisions to the Underground Injection Control Regulations for Class V Injection Wells).

4.10. *Respondent's Efforts to Comply with the Applicable Requirements:* As described above, Respondent was aware of the EPA's investigation of a possible illegal MVWDW at the Site in May 2014 when EPA inspectors sought permission to enter and inspect the Site. Rather than cooperating with the EPA's investigation, Respondent denied those inspectors permission to inspect the Site and continued injection activities until at least June 2022. These injection activities were so frequent and significant that they resulted in the Site's septic tank filling with fluid so contaminated that the odor of hydrocarbons was present for years. This illustrates a lack of any effort to comply with applicable regulatory requirements for years.

4.11. Respondent's ongoing injection activities despite clear knowledge of the EPA's investigation into a MVWDW at the Site necessitated the EPA to issue the Order in August 2022, as referenced above.<sup>5</sup> Respondent failed to comply with the Order and continues to be in noncompliance with that Order. While the EPA cannot allege violations of the Order in an administrative enforcement action,<sup>6</sup> Respondent's failure to comply with the Order further illustrates Respondent's lack of effort and/or interest in complying with the SDWA and applicable UIC regulations for purposes of determining the appropriate size of a civil penalty in this action.

4.12. *The Economic Impact of the Penalty on the Respondent:* Despite the EPA making multiple requests for financial information from Respondent during pre-filing discussions, Respondent failed to provide any significant documentation of the Respondent's financial status. The EPA has general indications that Respondent's business, Birdhouse Garage, should be

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<sup>5</sup> See *supra* ¶¶ 3.15 – 3.22.

<sup>6</sup> See 42 U.S. Code § 300h–2(b) (“[T]he appropriate United States district court . . . shall have jurisdiction to require compliance . . . with an order issued under [42 U.S. Code § 300h–2(c)].”).

considered a small business. Therefore, a large penalty could have a significant impact on the Respondent. However, barring further information from Respondent, the EPA is unable to provide a more detailed summary of the impact of this factor on the appropriate civil penalty for this matter.

4.13. *Other Matters as Justice May Require*: There are no facts justifying the use of this factor to adjust the penalty amount.

## **V. OPPORTUNITY TO REQUEST A HEARING**

5.1. Respondent has the right to file an Answer requesting a hearing on any material fact contained in this Complaint or on the appropriateness of the penalty proposed herein. Upon request, the Presiding Officer may hold a hearing for the assessment of these civil penalties, conducted in accordance with the provisions of the Part 22 Rules and the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.* A copy of the Part 22 Rules accompanies this Complaint.

5.2. Respondent's Answer, including any request for hearing, must comply with 40 C.F.R. § 22.15 and must be filed with the Regional Hearing Clerk within thirty (30) days after service of the Complaint, as determined by 40 C.F.R. § 22.7(c).

5.3. The Part 22 rules provide that "[t]he Presiding Officer . . . may by order authorize or require filing by facsimile or an electronic filing system subject to any appropriate conditions and limitations." 40 C.F.R. § 22.5(a)(1).

5.4. Pursuant to their authority as Presiding Officers, the Regional Judicial Officers of EPA Region 10 have issued a Standing Order to designate the EPA's Outlook-based email system to serve as EPA Region 10's Electronic Filing System ("EFS"). The Standing Order does not require that documents be filed using the email EFS. Rather, it authorizes the use of the email EFS as an option, in addition to those methods already authorized by the Part 22 Rules for



the filing of documents with the Regional Hearing Clerk. A copy of the Standing Order accompanies this Complaint.

5.5. The original and one copy of the Answer to this Complaint, as well as the original and one copy of all other documents which Respondent files in this action, must be sent to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 10  
1200 6th Avenue, Suite 155  
Seattle, Washington 98101

or if Respondent elects to use the email EFS, Respondent's Answer may be emailed to the Regional Hearing Clerk at [R10\\_RHC@epa.gov](mailto:R10_RHC@epa.gov).

## **VI. FAILURE TO FILE AN ANSWER**

6.1. In accordance with 40 C.F.R. § 22.15, Respondent's Answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint to which Respondent has any knowledge. Respondent's Answer must also state: (1) the circumstances or arguments which are alleged to constitute the grounds of defense; (2) the facts which Respondent intends to place at issue; and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained herein constitutes an admission of the allegation.

6.2. If Respondent fails to file a timely Answer to this Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17, which constitutes an admission of all the facts alleged in the Complaint and a waiver of the right to a hearing.

6.3. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in any default order shall become due and payable by Respondent without further proceedings thirty (30) days after the default order becomes final.

## **VII. INFORMAL SETTLEMENT CONFERENCE**

7.1. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this case, the proposed penalty, and the possibility of settling this matter. To request such a settlement conference, Respondent should contact:

Patrick B. Johnson  
Senior Water Law Attorney  
U.S. Environmental Protection Agency, Region 10  
Alaska Operations Office  
222 West 7th Avenue, #19  
Anchorage, Alaska 99513-7588  
(907) 271-3914  
[Johnson.patrick@epa.gov](mailto:Johnson.patrick@epa.gov)

7.2. Note that a request for an informal settlement conference does not extend the thirty (30) day period for filing a written Answer to this Complaint, nor does it waive Respondent's right to request a hearing.

7.3. Respondent is advised that, after the Complaint is issued, the Part 22 Rules prohibit any *ex parte* (unilateral) discussion of the merits of these or any other factually related proceedings with the Administrator, the Environmental Appeals Board or its members, the Regional Judicial Officer, the Presiding Officer, or any other person who is likely to advise these officials in the decision of this case.

## **VIII. RESERVATIONS**

8.1. Neither assessment nor payment of an administrative civil penalty pursuant to this Complaint shall affect Respondent's continuing obligation to comply with: (1) the SDWA and all other environmental statutes, and (2) the terms and conditions of all applicable SDWA permits.

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EDWARD J. KOWALSKI, Director  
Enforcement and Compliance Assurance Division