



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

ENFORCEMENT &
COMPLIANCE ASSURANCE
DIVISION

Reply To: 20-C04

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Ms. Sonia I. Slayden
President
Chill Transportation LLC
2112 Berkeley Avenue, Apt. 6
Los Angeles, California 90026

Re: EPA's Intent to File Administrative Complaint Against Chill Transportation

Dear Ms. Slayden:

The purpose of this letter is to inform Chill Transportation LLC ("Chill") that the U.S. Environmental Protection Agency (EPA) intends to file an administrative complaint in February 2023 for Chill's alleged Clean Water Act (CWA) violations unless Chill submits complete and adequate financial documentation to fully support its inability-to-pay claim to EPA by Tuesday, January 31st, 2023.

On March 15th, 2022, EPA notified Chill of documented CWA violations related to Chill's ownership and operation of a truck tractor and refrigerated trailer that crashed and caused an oil spill on August 8th, 2021. The Chill vehicle was traveling north-bound on Washington State Route 97, about 4 miles south of the City of Toppenish, Washington. The truck crash occurred at approximately Mile Post 57 on and near a bridge over Toppenish Creek, within the Toppenish National Wildlife Refuge and within the exterior boundaries of the Yakama Indian Reservation. The truck crash resulted in the release of oil (e.g., diesel fuel) to Toppenish Creek, wetlands adjacent to the creek and creek shorelines that included areas of highway ballast that had to be removed, disposed of and replaced as part of the oil spill response and remediation actions.

EPA has repeatedly conveyed to Chill that EPA favors pre-filing discussions. These help to ensure EPA has all relevant information and often leads to a resolution that avoids the time and expense of litigation. In EPA's March 15th, 2022, email notice captioned "Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act and Opportunity to Confer Prior to Filing," EPA stated that it "generally provides a period of 90 days to reach settlement before considering more formal enforcement options." As of the date of this letter, it has been over 270 days since that email message.

On June 1st, 2022, to aid Chill in providing support of its claim about its inability to pay any CWA civil penalty, EPA provided Chill with an Ability-to-Pay Claim Initial Data Request form (herein, "ATP Form"). Chill submitted initial ATP Form responses to EPA on July 15th and 21st, 2022, but those responses were incomplete and did not include the necessary

supporting documentation. For example, Chill's submission indicated, under Item Nos. 3 and 4, that Chill had submitted annual financial statements and year-to-date financial statements. However, Chill neither submitted financial statements with its July 2022 submissions nor after. In response, EPA outlined detailed inquiries regarding Chill's initial ATP Form responses to obtain the additional missing information and supporting documentation. As of the date of this letter, EPA has not received an updated Chill ATP Form response or any of the necessary supporting documentation.

Additionally, in October and November 2022, Chill indicated it would be submitting its 2021 federal income tax filings and supporting documentation as requested in the ATP form, Item No. 2. As of the date of this letter, EPA has not received Chill's 2021 federal income tax filings and supporting documentation.

EPA has repeatedly exercised patience and made efforts to accommodate your situation and Chill's current operating status, but the persistent delays in Chill's failure to make adequate and complete submissions prevent EPA from proceeding with a detailed evaluation of Chill's ability to pay any potential settlement penalty. Additionally, information submitted in July 2022 is now at least five months old and should be updated to ensure it is still accurate and representative of Chill's July 2022 representations.

Accordingly, EPA intends to proceed with the filing of an administrative complaint in February 2023 unless Chill submits complete and adequate financial documentation to fully support its inability-to-pay claim to EPA by Tuesday, January 31st, 2023. If Chill chooses to continue its representations of any inability-to-pay claim, Chill needs to update, finalize, and make complete and adequate financial documentation submissions which should include, but is not limited to, the following information:

1. An updated, revised and certified ATP Form, updating and describing any changes for each ATP form item since the original Chill July 15th and 21st submissions. EPA encourages Chill to re-review EPA's July 23rd email comments and inquiries as a guide for identifying potentially missing information that should be included in a revised, updated ATP Form;
2. Per ATP Form, Item No. 2, true and complete copies of signed federal tax returns for calendar years 2021 and 2022 that relate to filings for the Chill LLC. Note, if the detailed tax information is reported on a taxpayer's form 1040, furnish the entire 1040 with all schedules and statements.
3. Per ATP Form, Item No. 3, if the 2022 tax returns are not available, furnish true and complete copies of Chill's 2022 financial statements to include but not limited to Income Statement, Balance Sheet and Cash Flow Statement.

EPA encourages Chill to provide the requested ATP Form information and any additional substantive information which provides insight into Chill's current financial condition.

Please contact Patrick Johnson in the EPA Region 10 Office of Regional Counsel at (907) 271-3914 or johnson.patrick@epa.gov if you have any questions about this notice letter and EPA's intention to proceed with the filing of an administrative complaint absent Chill's submission of complete and adequate financial documentation to fully support its Ability-To-Pay Claim to EPA by Tuesday, January 31st, 2023.

Thank you for your prompt attention to this important matter.

Sincerely,

Jeff KenKnight, Chief
Water Enforcement and Field Branch