

From: [Johnson, Patrick](#)
To: [Sonia Slayden](#)
Cc: [Cool, Richard](#)
Subject: RE: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act and Opportunity to Confer Prior to Filing
Date: Thursday, April 7, 2022 11:02:00 AM
Attachments: [image001.png](#)

Sonia:

Feel free to call-in using the below information at any time:

Dial: [REDACTED]

When prompted, type the following conference line number: [REDACTED]

Sincerely,

Patrick B. Johnson
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
Alaska Operations Office
222 West 7th Avenue, #19
Anchorage, Alaska 99513-7588
(907) 271-3914

From: Sonia Slayden <chilltransportation1@gmail.com>
Sent: Thursday, April 7, 2022 10:58 AM
To: Johnson, Patrick <johnson.patrick@epa.gov>
Cc: Cool, Richard <Cool.Richard@epa.gov>
Subject: Re: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act and Opportunity to Confer Prior to Filing

Will do. Will you initiate the audio call?

On Thu, Apr 7, 2022 at 7:29 AM Johnson, Patrick <johnson.patrick@epa.gov> wrote:

Thank you, Sonia. I am sorry that you are still not feeling well. Let's try to proceed with today's meeting and reschedule if needed based on how you feel during the conversation.

Sincerely,

Patrick B. Johnson
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
Alaska Operations Office
[222 West 7th Avenue, #19](#)
[Anchorage, Alaska 99513-7588](#)
(907) 271-3914

From: Sonia Slayden <chilltransportation1@gmail.com>
Sent: Wednesday, April 6, 2022 5:21 PM

To: Johnson, Patrick <johnson.patrick@epa.gov>

Subject: Re: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act and Opportunity to Confer Prior to Filing

We can try. But am still not feeling well. We can start and see if I can complete it. And if not we can reschedule for next week. I appreciate your understanding. Thank you

On Wed, Apr 6, 2022 at 7:26 AM Johnson, Patrick <johnson.patrick@epa.gov> wrote:

Good morning, Sonia:

As a reminder, we are scheduled to speak tomorrow, April 7, at 12:00PM Pacific Time. I am hopeful that you are feeling better. If you are not feeling well enough to participate in tomorrow's call, please let me know and we can provide you a few more days to recover. If you are able to participate, Rick and I look forward to speaking with you then.

Sincerely,

Patrick B. Johnson
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
Alaska Operations Office
[222 West 7th Avenue, #19](#)
[Anchorage, Alaska 99513-7588](#)
(907) 271-3914

From: Johnson, Patrick

Sent: Tuesday, March 29, 2022 9:05 AM

To: chilltransportation1@gmail.com

Cc: Cool, Richard <Cool.Richard@epa.gov>

Subject: RE: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act and Opportunity to Confer Prior to Filing

Good morning, Sonia:

Thank you for your call. As you have likely noted, I just sent you an invitation for a meeting on April 7, 2022 at 12:00PM Pacific Time. Rick and I look forward to speaking with you then.

Sincerely,

Patrick B. Johnson
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
Alaska Operations Office
[222 West 7th Avenue, #19](#)
[Anchorage, Alaska 99513-7588](#)
(907) 271-3914

From: Sonia Slayden <chilltransportation1@gmail.com>

Sent: Tuesday, March 29, 2022 7:20 AM

To: Johnson, Patrick <johnson.patrick@epa.gov>

Subject: Re: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act and Opportunity to Confer Prior to Filing

Good morning Patrick,

This is Sonia Slayden I did leave you a voicemail in regards to this matter. Please call me at your earliest convenience. My number is 323-517-5584 thank you

On Mon, Mar 28, 2022 at 8:33 AM Johnson, Patrick <johnson.patrick@epa.gov> wrote:

Good morning, Ms. Slayden:

I hope that this message finds you well. I am an attorney with the Region 10 office of the U.S. Environmental Protection Agency. It is my understanding that you spoke with Rick Cool in EPA Region 10's Surface Water Enforcement Section after receiving the below email message. According to Rick, during that phone conversation you indicated an intent to call me last week to discuss scheduling a meeting to kick-off settlement negotiations. Rick and I look forward to working with you to develop a fair, amicable, and appropriate path forward to resolve this matter. From my call records, it does not appear that you were able to find time to give me a call last week as you intended. Tomorrow (March 29) is the end of the 14-day period that Rick provided in his below email message for you to contact me to initiate settlement negotiations. I am hopeful that this email message will serve to move the ball forward towards starting those settlement discussions.

Assuming that you remain interested in engaging in settlement discussions with EPA, I normally recommend that those discussions start with a negotiation "kick-off" meeting that provides EPA an opportunity to explain the Clean Water Act administrative enforcement process, answer any of your questions, and then allows you an opportunity to share anything that you would like for EPA to consider as we make decisions about the appropriate path forward. In that "kick-off" meeting and in subsequent discussions between Chill Transportation, LLC and EPA, you are welcome to be represented by legal counsel. Additionally, if you choose to start discussions without legal counsel but decide at any point that you would like to stop an interaction until you have had an opportunity to engage legal counsel, please let us know and we will provide you with the necessary time to do that.

If you and/or others representing Chill Transportation, LLC would like to schedule that negotiation "kick-off" meeting with EPA, I propose the following agenda for that meeting:

- Introductions;
- EPA – General overview of the Clean Water Act administrative enforcement process and description of alleged violations;
- Chill Transportation, LLC – Response to alleged violations;
- Chill Transportation, LLC – Anything further for EPA's consideration; and
- EPA – Proposed path forward.

In that meeting, EPA would be represented by Rick Cool and myself. **If you are interested in scheduling that meeting, please provide a list of attendees and your preference among Rick and I's availability over the next couple of weeks. If none of these times work, please provide some alternative options:**

- Thursday, March 31: 2:00PM – 3:00PM Pacific Time;
- Monday, April 4: Anytime between 11:30AM – 3:00PM Pacific Time;
- Tuesday, April 5: Between 10:00AM – 11:00AM Pacific Time and between 12:00PM – 1:00PM Pacific Time;
- Thursday, April 7: Anytime between 11:00AM – 1:00PM Pacific Time.

EPA employees are still primarily working remotely. As a result, when you have selected a time and date, I will send you an email with a meeting invitation that will provide a videoconferencing or conference call option for participation in the meeting. If you choose to use videoconferencing technology, EPA uses the Microsoft Teams platform.

I look forward to hearing back from you.

Sincerely,

Patrick B. Johnson
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
Alaska Operations Office
[222 West 7th Avenue, #19](#)
[Anchorage, Alaska 99513-7588](#)
(907) 271-3914

From: Cool, Richard <Cool.Richard@epa.gov>

Sent: Tuesday, March 15, 2022 10:37 AM

To: chilltransportation1@gmail.com

Cc: Johnson, Patrick <johnson.patrick@epa.gov>; Franklin, Richard <Franklin.Richard@epa.gov>

Subject: Notice of Intent to File Administrative Complaint for Violation of the Clean Water Act and Opportunity to Confer Prior to Filing

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Ms. Sonia I. Slayden

President

Chill Transportation, LLC

[2112 Berkeley Ave, Apt. 6](#)

[Los Angeles, California 90026](#)

chilltransportation1@gmail.com

Dear Ms. Slayden:

The U.S. Environmental Protection Agency (EPA) documented violations of the Clean

Water Act (CWA) related to Chill Transportation LLC's (Chill) ownership and operation of a truck tractor and refrigerated trailer that crashed and caused an oil spill on August 8, 2021, as the Chill tractor/trailer was traveling north-bound on State Route 97, about 4 miles south of the City of Toppenish, Washington. The accident occurred at approximately Mile Post 57 on and near a bridge over Toppenish Creek and within the Toppenish National Wildlife Refuge. The Chill truck accident resulted in the release of oil (e.g., diesel fuel, etc.) to Toppenish Creek, wetlands adjacent to the creek and creek shorelines that included areas of highway ballast.

EPA alleges violations of the following CWA provisions regarding this oil spill/discharge incident:

- Chill's discharge of oil into and upon waters of the United States and adjoining shorelines in a quantity that may be harmful as determined by 40 C.F.R. § 110.3, in violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3); and
- Chill's discharge of a pollutant from a point source to the waters of the United States without a National Pollutant Discharge Elimination System permit in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Additionally, Chill failed to immediately notify the National Response Center of this discharge of oil to waters of the United States, as required by 40 C.F.R. § 110.6 and Section 311(b)(5) of the CWA, 33 U.S.C. § 1321(b)(5).

The purpose of this notice is to inform you that EPA is prepared to initiate an enforcement action for these CWA violations and to offer you the opportunity to discuss this matter with EPA prior to the filing of a Complaint.

Section 311(b) of the CWA, 33 U.S.C. § 1321(b), and 40 C.F.R. Part 19 authorize EPA to seek penalties for violations of the CWA up to \$48,762 per day of violation or \$1,951 per barrel of oil discharged. Additionally, Section 309 of the CWA authorizes EPA to issue administrative orders requiring specific measures be taken to ensure compliance with the CWA.

In general, EPA favors pre-filing discussions, which help ensure that we have all relevant information and may lead to resolution that avoids the time and expense of litigation. If we can reach a settlement, we would resolve the case with an administrative Consent Agreement and a Final Order, and EPA would not file a Complaint. Once a Consent Agreement and a Final Order is signed by all parties, EPA typically issues a press release announcing the settlement.

Before responding to this notice, EPA encourages you to review documents that are pertinent to EPA's enforcement action and may benefit any settlement discussions:

1. EPA's [Small Business Resources Information Sheet](#) provides information on potential compliance assistance opportunities that are available to you.
2. EPA's *Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean*

Water Act for guidance on appropriate penalties in settlement of Section 311 civil administrative and judicial actions at <http://www2.epa.gov/enforcement/civil-penalty-policy-section-311b3-and-section-311j-clean-water-act-cwa-august-1998>.

EPA is coordinating with the Washington State Department of Ecology (Ecology) regarding this oil spill incident. Any potential resolution between Chill and Ecology related to this oil spill incident would be factored into EPA's civil administrative settlement considerations. For example, if Chill paid a civil penalty to Ecology for alleged state law-based violations that originated from the same oil spill incident, EPA would consider reducing its final civil administrative penalty, as may be appropriate, taking into account the similarities and differences between the CWA and Ecology's relevant enforcement authorities. If you have any questions for Ecology, please contact Tami Neilson, Ecology Spill Enforcement Coordinator, at (360) 701-4379 .

EPA generally provides a period of 90 days to reach settlement before considering more formal enforcement options. To reach a timely settlement within 90 days, pre-filing negotiations should begin within 30 days.

Please contact Patrick Johnson in the Office of Regional Counsel at (907) 271-3914 within 14 days of this notice to schedule a time to begin negotiations.

I would appreciate it if you would reply to this email to confirm its receipt.

Thank you for your prompt attention to this important matter.



Sincerely,

Rick Cool
Surface Water Enforcement Section
U.S. EPA Region 10
1200 Sixth Avenue, Ste. 155, M/S 20-C04
Seattle, WA 98101

cool.richard@epa.gov
Phone: (206) 553-6223
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