

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

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In the Matter of:

PRM Concrete Corporation
775 School Street
Pawtucket, RI 02860

Respondent

Docket No. CWA-01-2010-0050

**ANSWER OF PRM CONCRETE CORPORATION
AND REQUEST FOR HEARING**

Respondent PRM Concrete Corporation (“Respondent”), by and through its counsel Partridge Snow & Hahn LLP, answers the Administrative Complaint of Complainant United States Environmental Protection Agency, Region 1, (“Complainant”) as follows:

1. Paragraph 1 of the Administrative Complaint describes the legal authority to which the EPA has brought the within action, to which no response is required. To the extent that paragraph 1 contains allegations to which a response is required, they are denied.
2. Paragraph 2 of the Administrative Complaint purports to characterize the intention of Complainant in bringing the within action, to which no response is required. To the extent that paragraph 2 contains allegations to which a response is required, they are denied.
3. Paragraph 3 of the Administrative Complaint purports to characterize the purpose, objectives, and directives of the federal Clean Water Act, to which no response is required. To the extent that paragraph 3 contains allegations to which a response is required, they are denied.

4. Paragraph 4 of the Administrative Complaint purports to recite a definition contained in the federal Clean Water Act, to which no response is required. To the extent that paragraph 4 contains allegations to which a response is required, they are denied.

5. Paragraph 5 of the Administrative Complaint purports to recite a definition contained in the federal Clean Water Act, to which no response is required. To the extent that paragraph 5 contains allegations to which a response is required, they are denied.

6. Paragraph 6 of the Administrative Complaint purports to recite a definition contained in the federal Clean Water Act, to which no response is required. To the extent that paragraph 6 contains allegations to which a response is required, they are denied.

7. Paragraph 7 of the Administrative Complaint purports to recite a definition contained in the federal Clean Water Act, to which no response is required. To the extent that paragraph 7 contains allegations to which a response is required, they are denied.

8. Paragraph 8 of the Administrative Complaint purports to recite a definition contained in the federal Clean Water Act, to which no response is required. To the extent that paragraph 8 contains allegations to which a response is required, they are denied.

9. Paragraph 9 of the Administrative Complaint purports to recite a legal requirement contained in the federal Clean Water Act, to which no response is required. To the extent that paragraph 9 contains allegations to which a response is required, they are denied.

10. Paragraph 10 of the Administrative Complaint purports to characterize the authority of the Complainant under the federal Clean Water Act, to which no response is required. To the extent that paragraph 10 contains allegations to which a response is required, they are denied.

11. Paragraph 11 of the Administrative Complaint purports to characterize the authority of the Complainant under the federal Clean Water Act to promulgate regulations and to state a regulatory requirement pursuant to EPA's storm water discharge regulations, to which no response is required. To the extent that paragraph 11 contains allegations to which a response is required, they are denied.

12. Paragraph 12 of the Administrative Complaint purports to recite a definition contained in Complainant's storm water discharge regulations, to which no response is required. To the extent that paragraph 12 contains allegations to which a response is required, they are denied.

13. Paragraph 13 of the Administrative Complaint purports to characterize the authority of the Complainant to delegate authority to the states under the federal Clean Water Act, to which no response is required. To the extent that this characterization contains allegations to which a response is required, they are denied. With respect to the Complainant's delegation of this authority to Rhode Island, Respondent is without knowledge and information sufficient to form a belief as to its truth and, therefore, leaves Complainant to its proof.

14. Paragraph 14 of the Administrative Complaint purports to set forth legal requirements of the federal Clean Water Act, federal storm water regulations, and Rhode Island regulations, to which no response is required. To the extent that paragraph 14 contains allegations to which a response is required, they are denied.

15. Paragraph 15 of the Administrative Complaint purports to recite a definition of federal and state storm water regulations, to which no response is required. To the extent that paragraph 15 contains allegations to which a response is required, they are denied.

16. Respondent is without knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Administrative Complaint and, therefore, leaves Complainant to its proof.

17. Respondent is without knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Administrative Complaint and, therefore, leaves Complainant to its proof.

18. Admit.

19. Respondent is without knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Administrative Complaint and, therefore, leaves Complainant to its proof.

20. Admit that Respondent owns a ready-mix concrete plant at 775 School Street, Pawtucket, Rhode Island. Denied that Respondent currently operates such a plant. As to the remaining allegations of paragraph 20 of the Administrative Complaint, Respondent is without knowledge and information sufficient to form a believe as to the truth of the allegations and, therefore, leaves Complainant to its proof.

21. Denied.

22. Denied.

23. Denied.

24. Respondent is without knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Administrative Complaint and, therefore, leaves Complainant to its proof.

25. Respondent is without knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Administrative Complaint and, therefore, leaves Complainant to its proof.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Admit that Respondent was required to obtain permit coverage for any exposed industrial activities at its Pawtucket facility during the relevant time period. As to the remaining allegations of paragraph 30 of the Administrative Complaint, they are denied.

31. Admit that Respondent did not apply for coverage under the RISMGP until July, 2008.

COUNT I

32. Respondent realleges its answers to paragraphs 1-31 as if fully stated herein.

33. Denied.

COUNT II

34. Respondent realleges its answers to paragraphs 1-33 as if fully stated herein.

35. Admit that Respondent did not submit a Notice of Intent for coverage under RIMSGP as stated until July, 2008. Denied as to the remaining allegations of paragraph 35 of the Administrative Complaint.

COUNT III

36. Respondent realleges its answers to paragraphs 1-35 as if fully stated herein.

37. Admit that Respondent did not submit a Notice of Intent for coverage under the 2003 IGP and the 2006 RIMSGP during the stated time period. Denied as the remaining allegations contained in paragraph 37 of the Administrative Complaint.

38. Paragraph 38 of the Administrative Complaint purports to set forth Complainant's proposal regarding the assessment of civil penalties against Respondent, to which no response is required. To the extent that paragraph 38 contains allegations to which a response is required, they are denied.

39. Paragraph 39 of the Administrative Complaint purports to set forth the factors Complainant has taken or can take into consideration in determining the amount of penalty to assess against Respondent, to which no response is required. To the extent that paragraph 39 contains allegations to which a response is required, they are denied.

40. Paragraph 40 of the Administrative Complaint sets forth the penalty calculation and the penalty amount Complainant seeks to assess against Respondent, to which no response is required. To the extent that paragraph 40 contains allegations to which a response is required, they are denied.

41. Denied.

42. Denied.

43. Paragraph 43 of the Administrative Complaint states that the Complainant will file a penalty calculation document prior to any hearing in this matter, to which no response is required. To the extent that paragraph 43 contains allegations to which a response is required, they are denied.

44. Paragraph 44 of the Administrative Complaint purports to serve as a notice to Respondent of its right to request a hearing on facts alleged and the appropriateness of the

penalty and as a notice about the procedures relating to such hearing, to which no response is required. To the extent that paragraph 44 contains allegations to which a response is required, they are denied.

45. Paragraph 45 of the Administrative Complaint sets forth an instruction to Respondent relating to the within Answer, to which no response is required. To the extent that paragraph 45 contains allegations to which a response is required, they are denied.

46. Paragraph 46 of the Administrative Complaint sets forth an instruction to Respondent relating to the within Answer, to which no response is required. To the extent that paragraph 46 contains allegations to which a response is required, they are denied.

47. Paragraph 47 of the Administrative Complaint purports to set forth the legal consequence of failing to file an Answer in the within matter, to which no response is required. To the extent that paragraph 47 contains allegations to which a response is required, they are denied.

48. Paragraph 48 of the Administrative Complaint purports to set forth a legal requirement of the federal Clean Water Act and other laws, to which no response is required. To the extent that paragraph 48 contains allegations to which a response is required, they are denied.

AFFIRMATIVE DEFENSES

1. The Complainant's proposed penalty improperly assumes that the alleged unauthorized process and storm water discharge during the relevant time period came from Respondent's facility when, in fact, there is evidence of sources other than Respondent's facility.

2. The Complainant's proposed penalty improperly calculates a violation of \$11,000/day for 990 days (the number of days that Respondent is alleged to not have been

permitted) when the Complainant's evidence of unauthorized discharges is only based upon 13 wet weather events.

3. Without evidence that Respondent is responsible for unlawful process and storm water discharges during the relevant time period (990 days), Complainant cannot propose an administrative penalty based solely upon failure to obtain a storm water permit.

4. The Complainant penalty calculation has not taken into consideration all relevant factors and/or has assigned monetary values to factors that are excessive or not supportable.

5. The Complainant's proposed penalty improperly assumes process water discharges from an area of the facility from which no process water was or could be discharged.

6. Respondent was not required to have an individual storm water discharge permit (i.e. RIPDES permit) for its former operations because it did not discharge process or storm water through a discrete conveyance into the municipal storm water catch basins in School Street or into the Seekonk River.

7. All of the process waters that were generated by the former operations at Respondent's facility were controlled and contained on-site through a system of on-site filtration.

8. Storm water that may have been contaminated with cement or other additives from Respondent's operations was prevented from flowing off of Respondent's facility through structural and non-structural best management practices, including berming and infiltration.

9. Respondent is no longer an operator of the subject facility.

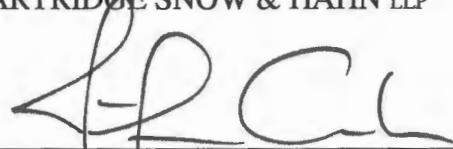
10. The Complainant has shut down operations at the subject facility and, given its current and/or future liabilities, does not currently have the ability to pay the proposed penalty.

**RESPONDENT PRM CONCRETE CORPORATION HEREBY REQUESTS A
HEARING UPON THE FACTS ALLEGED IN THE ADMINISTRATIVE COMPLAINT
AND THE PROPOSED PENALTY.**

RESPONDENT PRM CONCRETE
CORPORATION,

By Its Attorneys,

PARTRIDGE SNOW & HAHN LLP

A handwritten signature in black ink, appearing to read 'J. Cervenka', written over a horizontal line.

Jennifer Cervenka (BBO#645724; RI#6340)
180 South Main Street
Providence, RI 02903
(401) 861-8200
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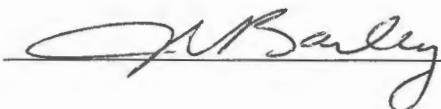
CERTIFICATION

I hereby certify that I caused the original and one (1) true and accurate copy of the within Answer and Request for Hearing to be mailed via overnight delivery to the following on the 2nd day of November, 2010.

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
(ORA18-1)
Boston, MA 02109-3912

With a copy to:

Amanda Helwig, Esq.
Enforcement Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code: 2243-A
Washington, DC 20460



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