



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:

Howard Gross,

Respondent.

)
)
)
)
)

Docket No. TSCA-01-2019-0050

ORDER OF DESIGNATION

Chief Administrative Law Judge Susan L. Biro, U.S. Environmental Protection Agency, Washington, D.C., is hereby designated as the Administrative Law Judge to preside in this proceeding under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules of Practice”), 40 C.F.R. Part 22.

Parties shall participate in this matter through the submission of documents in the manner described below.¹ Future orders will instruct the parties on what documents to submit.

Filing: As provided in 40 C.F.R. § 22.5(a), the original and one copy of each document intended to be part of the record of this proceeding shall be filed with the Headquarters Hearing Clerk. Electronic filing is strongly encouraged. To file a document electronically, the document shall be submitted to the Headquarters Hearing Clerk using the OALJ E-Filing System, a web-based tool that can be accessed by visiting the OALJ’s website at www.epa.gov/alj.² A document filed electronically is deemed to constitute both the original and one copy of the document.

Any party seeking to file a document electronically must first register to use the OALJ E-Filing System. Registration is not automated. There may be a delay of one to two business days between the time a party applies for registration and the time that party will be able to upload documents into the system.

A document submitted to the OALJ E-Filing System is considered “filed” at the time and date of electronic reception, as recorded by the OALJ E-Filing System immediately upon reception. To be considered timely, documents submitted through the OALJ E-Filing System

¹ The parties are advised to visit the website for the Office of Administrative Law Judges (“OALJ”) at <https://www.epa.gov/alj/filing-and-service-during-covid-19> for the most up-to-date guidance on filing and service procedures in light of the ongoing COVID-19 pandemic.

² More information about electronic filing may be found in the Standing Order Authorizing Electronic Filing in Proceedings before the Office of Administrative Law Judges, available on the OALJ’s website at www.epa.gov/alj.

must be received by 11:59 p.m. Eastern Time on the date the document is due, unless another time is specified by the presiding judge. Within an hour of a document being electronically filed, the OALJ E-Filing System will generate an electronic receipt of the submission that will be sent by email to both the party submitting the document and the Headquarters Hearing Clerk.

The OALJ E-Filing System will accept any type of digital file, but the file size is limited to 70 megabytes.³ Electronically filed textual documents must be in Portable Document Format (“PDF”).

Alternatively, if a party is unable to file a document utilizing the OALJ E-Filing System, e.g., the party lacks access to a computer, the party may file the document by U.S. mail or facsimile.⁴ U.S. mail is currently being delivered to this Tribunal at an offsite location on a weekly basis only. To file a document using by U.S. mail, the document shall be sent to the following mailing address:

Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Ave., NW
Mail Code 1900R
Washington, DC 20460

Facsimile may be used to file a document if it is fewer than 20 pages in length. To file a document using facsimile, the document shall be sent to this Tribunal’s offsite location at (916) 550-9639. A document submitted by U.S. mail or facsimile is considered “filed” when the Headquarters Hearing Clerk physically receives it, as reflected by the inked date stamp physically applied by the Headquarters Hearing Clerk to the paper copy of the document.

Regardless of the method of filing, the original of all filed documents must be signed in accordance with 40 C.F.R. § 22.5(c), and must contain a return name, mailing address, telephone number, and email address.

Service: A copy of each document filed in this proceeding shall be “served” by the filing party on the presiding judge and on all other parties. 40 C.F.R. § 22.5(b). While the Rules of Practice ordinarily allow documents to be served by U.S. mail, commercial delivery service, or personal delivery, as well as by facsimile or email if service by those electronic means is

³ If your multimedia file exceeds 70 megabytes, you may submit the file on a compact disc and mail it through U.S. mail to the mailing address identified in this Order, or contact the Headquarters Hearing Clerk at (202) 564-6281 for instructions on alternative electronic filing methods.

⁴ Because of the ongoing national emergency related to COVID-19, this Tribunal’s ability to receive filings or correspondence by U.S. mail or facsimile is limited. If a party is without access to a computer and must file documents by U.S. mail or facsimile, the party shall notify the Headquarters Hearing Clerk *every time* it files a document in such a manner. The Headquarters Hearing Clerk may be reached at (202) 564-6281.

At this time, the Tribunal is not able to accept filings or correspondence by courier or commercial delivery service, such as UPS, FedEx, or DHL. Likewise, the OALJ is not currently accessible to the public or able to receive documents by personal delivery. *See* Order Urging Electronic Service and Filing (April 10, 2020).

consented to in writing, 40 C.F.R. § 22.5(b)(2), this Tribunal strongly encourages parties to serve all documents on opposing parties by electronic means only, *see* Order Urging Electronic Service and Filing (April 10, 2020). Documents filed electronically through the OALJ E-Filing System are deemed to have also been served electronically on the presiding judge. If documents are served on the presiding judge by U.S. mail, the mailing address listed above shall be used. If documents are served on the presiding judge by facsimile, the facsimile number listed above shall be used. Service will be considered complete upon mailing or upon transmission by facsimile or email. 40 C.F.R. § 22.7(c).

Certificate of Service: Every filed document must show how and when the document was filed with the Headquarters Hearing Clerk and how and when the document was served on the presiding judge and each party. This showing may be made through a written statement or Certificate of Service, an example of which is attached to this Order. 40 C.F.R. § 22.5(a)(3).

Privacy Act Statement; Notice of Disclosure of Confidential and Personal Information; Waiver of Confidentiality and Consent to Public Disclosure: The parties are cautioned that, unless redacted, all information filed with this Tribunal will be made publicly available. Thus, the parties are hereby advised not to file, or to redact (i.e., remove or obscure) where filing is necessary, any Confidential Business Information (“CBI”) or Personally Identifiable Information (“PII”) pertaining to any person. This may include information that, if disclosed to the public, would constitute an unwarranted invasion of personal privacy, such as Social Security numbers, medical records, and personal financial information.

To the extent that any person files or submits any un-redacted Confidential Business Information (“CBI”) or Personally Identifiable Information (“PII”) pertaining to themselves or their client, that person thereby waives any claims to confidentiality and thereby consents to public disclosure by EPA, including posting on the Internet, of all such information they submit. To protect such information against public disclosure, parties must follow the procedures specified on the OALJ’s website at www.epa.gov/alj.



Susan L. Biro
Chief Administrative Law Judge

Dated: August 12, 2020
Washington, D.C.

In the Matter of *Howard Gross*, Respondent.
Docket No. TSCA-01-2019-0050

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order of Designation**, dated August 12, 2020, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



Mary Angeles
Paralegal Specialist

Copy by OALJ E-Filing System to:
Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20004

Copy by Electronic and Regular Mail to:
Timothy M. Conway
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (Mail Code 04-3)
Boston, MA 02109-3912
Email: conway.tim@epa.gov
For Complainant

George E. Olson
Olson Law Office
50 Congress Street, Suite 415
Boston, MA 02109
Email: golson@gedolsonlaw.com
For Respondent

Dated: August 12, 2020
Washington, D.C.