

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

STATE OF ALASKA DEPARTMENT OF
TRANSPORTATION AND PUBLIC
FACILITIES,

Juneau, Alaska

Respondent.

DOCKET NO. CWA-10-2024-0154

**COMPLAINANT’S PRELIMINARY
STATEMENT**

1.1. The U.S. Environmental Protection Agency (“EPA” or “Complainant”) filed a Complaint on August 27, 2024, against the State of Alaska Department of Transportation and Public Facilities (“Respondent”) alleging violations of the Clean Water Act. Respondent filed an Answer to the Complaint on October 4, 2024. On October 24, 2024, this Tribunal issued a Prehearing Order that required, *inter alia*, that Complainant and the Respondent each file no later than November 15, 2024, a “Preliminary Statement identifying (1) whether the party prefers for the hearing in this matter to be held in person or by videoconference; (2) the party’s preferred location of the hearing in the event that it is held in person; and (3) a valid email address at which the party is able to accept service of orders and decisions issued by this Tribunal and service of documents filed by other parties.”

1.2. While Complainant has the technological capability to participate in hearings by videoconference, it expresses a slight preference for any hearing to be held in person to minimize the possibility of disruptions associated with technological issues outside the control of the hearing participants.

1.3. As identified in 40 C.F.R. §§ 22.19(d) and 22.21(d), a hearing “shall be held in the county where the respondent resides or conducts the business which the hearing concerns, in the city in which the relevant Environmental Protection Agency Regional Office is located, or in

Washington, DC, unless the Presiding Officer determines that there is good cause to hold it at another location or by telephone.” Complainant’s counsel and one of its primary witnesses are located in Anchorage, Alaska. Additionally, to the best of Complainant’s knowledge, Respondent’s counsel is also located in Anchorage, Alaska. While the EPA Region 10 Enforcement and Compliance Assurance Division Director is based at EPA Region 10’s main office in Seattle, Washington, EPA Region 10 has an Alaska Operations Office located in Anchorage, Alaska with several staff, including Complainant’s counsel and one of its primary witnesses.¹ Therefore, if this Tribunal were to conclude that EPA Region 10’s Alaska Operations Office can be considered a “relevant” EPA regional office pursuant to 40 C.F.R. §§ 22.21(d) and 22.19(d), Complainant would prefer that any hearing occur in the Municipality of Anchorage, Alaska. However, if this Tribunal concludes that EPA Region 10’s Seattle, Washington office is the only “relevant” location for purposes of 40 C.F.R. §§ 22.21(d) and 22.19(d), Complainant prefers that the hearing occur in the City and Borough of Juneau, Alaska. This is the location where the activities subject to this action occurred and where to the best of Complainant’s knowledge at least some of the Respondents’ likely witnesses reside. This location would require less cumulative travel for the hearing participants.

1.4. Complainant can accept service of orders and decisions issued by this Tribunal and service of documents filed by other parties at: johnson.patrick@epa.gov.

¹ See <https://www.epa.gov/aboutepa/epa-alaska>.

Respectfully submitted,

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION 10:

November 15, 2024

DATE

Patrick B. Johnson
Senior Water Law Attorney
U.S. Environmental Protection Agency, Region 10
Alaska Operations Office
222 West 7th Avenue, No. 19
Anchorage, Alaska 99513
johnson.patrick@epa.gov

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO.
)	CWA-10-2024-0154
STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES,)	CERTIFICATE OF SERVICE
)	
Juneau, Alaska)	
)	
Respondent.)	

The undersigned certifies that the original COMPLAINANT’S PRELIMINARY
STATEMENT in the above-captioned action was filed with the OALJ E-Filing System to:

Mary Angeles, Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

Further the undersigned certifies that a true and correct copy of the original
COMPLAINANT’S PRELIMINARY STATEMENT was served on Respondent State of Alaska
Department of Transportation and Public Facilities via email to:

Brian E. Gregg, Assistant Attorney General
State of Alaska Department of Law
brian.gregg@alaska.gov
ayla.lisenbee@alaska.gov

Dated this 15th day of November, 2024.

Patrick B. Johnson
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Anchorage, Alaska 99513
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