UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:	)	
	)	
Polo Development, Inc.,	)	
AIM Georgia, LLC, and	)	**Docket No. CWA-05-2013-0003**
Joseph Zdrilich	)	
	)	**Dated: August 22, 2014**
Respondents.	)	

NOTICE ON NEW ELECTRONIC FILING PROCEDURES

On August 11, 2014, the Chief Administrative Law Judge issued a Standing Order Authorizing Electronic Filing in Proceedings Before the Office of Administrative Law Judges ("Standing Order"). The attached Standing Order describes the new procedures for electronic filing. More information regarding electronic filing may be found by visiting the website for the Office of Administrative Law Judges at http://www.epa.gov/oalj/. Electronic filing by email is no longer authorized.

Lisa Busch

M. Lisa Buschmann
Administrative Law Judge

OFFICE OF ADMINISTRATIVE LAW JUDGES
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C.

STANDING ORDER AUTHORIZING ELECTRONIC FILING IN PROCEEDINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, set forth at 40 C.F.R. Part 22 ("Consolidated Rules of Practice"), state that "[t]he Presiding Officer . . . may by order authorize . . . electronic filing, subject to any appropriate conditions and limitations." 40 C.F.R. § 22.5(a)(l). Pursuant to this authority, the Chief Administrative Law Judge hereby authorizes electronic filing in all cases currently before or subsequently transferred to the Office of Administrative Law Judges ("OALJ") that are governed by the Consolidated Rules of Practice[1] and adopts the following conditions and limitations to facilitate electronic filing.[2]

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[1] The authority granted by this Order shall also apply to proceedings under those other provisions in Title 40 that utilize 40 C.F.R. Part 22 procedures. *See, e.g.*, 40 C.F.R. Part 17 (applications for awards under the Equal Access to Justice Act that require filing and service consistent with Part 22); 40 C.F.R. § 66.91 (Clean Air Act enforcement appeals hearings governed by 40 C.F.R. Part 22 in conjunction with supplemental regulations at 40 C.F.R. Part 66). Pursuant to the authority delegated to the Administrative Law Judges by the Administrator in Delegation Number 1-37, the authority granted by this Order shall also apply to proceedings under other provisions in Title 40 that do not expressly incorporate the Part 22 procedures. *See, e.g.*, 40 C.F.R. Part 7 (nondiscrimination in programs or activities receiving federal assistance from the EPA); 40 C.F.R. Part 27 (administrative procedures for imposing civil penalties and assessments pursuant to the Program Fraud and Civil Remedies Act of 1986, 31 U.S.C. §§ 3801–3812); 40 C.F.R. Part 85 (public hearings conducted under the mobile sources of air pollution program); 40 C.F.R. Part 164 (rules of practice governing several types of non-enforcement hearings under the Federal Insecticide, Fungicide, and Rodenticide Act); 40 C.F.R. Part 209 (rules governing proceedings under the Noise Control Act of 1972). The authority granted by this Order shall also apply to proceedings under 40 C.F.R. Part 78 (providing that the Environmental Appeals Board may refer an appeal under the Acid Rain program to the Chief Administrative Law Judge to conduct an evidentiary hearing to resolve disputed facts).

[2] This Standing Order does not mandate electronic filing. Rather, it authorizes the use of electronic filing in addition to those filing methods already authorized and enumerated in the Consolidated Rules of Practice. 40 C.F.R. § 22.5(a)(l). For documents submitted through those means, the inked date stamp physically applied by the Office of Administrative Law Judges to the paper copy of the documents will continue to serve as the official record of the date and time of filing. The Office of Administrative Law Judges is open to receive such paper filings between 8:30 a.m. and 4:30 p.m. Eastern Time, Monday through Friday. Any paper document received by the Office of Administrative Law Judges after 4:30 p.m. Eastern Time may be treated as having been filed the next business day.

The conditions and limitations set forth herein may be amended or revoked generally or in regard to a specific case or group of cases by further order of the Chief Administrative Law Judge in her sole discretion at any time. In addition, the Administrative Law Judge presiding in a specific case may issue an order modifying these conditions and limitations if deemed appropriate in his or her discretion.

General Filing Requirements

The Office of Administrative Law Judges has created the OALJ E-Filing System, a web-based tool that allows registered users to file documents electronically. The OALJ E-Filing System is accessible at www.epa.gov/oalj.

Any party choosing to file electronically must first register with the OALJ E-Filing System at https://yosemite.epa.gov/OA/EAB/EAB-ALJ Upload.nsf. To be considered timely, documents submitted through the OALJ E-Filing System must be received by 11:59 p.m. Eastern Time on the day the document is required to be filed. Immediately upon submission to the OALJ E-Filing System, the document will be stamped with the official filing date and time. 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. There may be a delay of approximately one half hour between document submission and transmission of the electronic receipt.

A motion and associated brief may be filed together through the OALJ E-Filing System. However, any documents filed in support of a brief, motion, or other filing, such as copies of proposed exhibits submitted as part of a prehearing exchange, should be submitted separately as an attachment. Where there are multiple attachments, they should be filed together in a single electronic file, to the extent technically practicable.

Please be advised that sending a document to the e-mail address of a staff member within the Office of Administrative Law Judges, or sending a document to oaljfiling@epa.gov, rather than submitting it through the official OALJ E-Filing System, does **NOT** constitute electronic filing unless otherwise specified in writing by the Presiding Officer.

Satisfaction of Specific Rule Requirements

The Consolidated Rules of Practice require that "[t]he original of any filed document (other than exhibits) shall be signed by the party filing or by its attorney or other representative." 40 C.F.R. § 22.5(c)(3). Documents filed through the OALJ E-Filing System shall be deemed to satisfy this signature requirement and that of any other provisions of Title 40 of the Code of Federal Regulations that require a signature. *See, e.g.*, 40 C.F.R. § 27.26(a)(3) (discussing requirement for a signature); 40 C.F.R. § 78.4(a)(1) (same). By filing a document through the OALJ E-Filing System, a party, or its attorney or other representative, represents that the signatory has read the document, that to the best of his or her knowledge the statements made therein are true, and that the document is not interposed for delay. 40 C.F.R. § 22.5(c)(3). The full name of the filing party, or of its attorney or other representative, shall be typed or printed below the signature line of the electronically filed document. A copy of each document filed in

the proceeding shall be served on each party, and a certificate of service must accompany each document filed through the OALJ E-Filing System. *See* 40 C.F.R. § 22.5(a)(3), (b).

The Consolidated Rules of Practice require that "[t]he original and one copy of each document intended to be part of the record . . . be filed with the Regional Hearing Clerk when the proceeding is before the Presiding Officer . . . ." 40 C.F.R. § 22.5(a)(l).[3] A party who files through the OALJ E-Filing System is hereby deemed to have satisfied this requirement for duplicate filing, as well as other provisions of Title 40 of the Code of Federal Regulations that require duplicate filing. *See, e.g.*, 40 C.F.R. § 7.130(b)(2)(ii) (discussing filing requirements); 40 C.F.R. § 27.26(a)(1) (same); 40 C.F.R. § 78.4(d) (same); 40 C.F.R. § 85.1807(b), (c) (same); 40 C.F.R. § 164.5 (same); 40 C.F.R. § 209.11 (same). Documents filed through the OALJ E-Filing System shall also be deemed served on the Presiding Officer. *See* 40 C.F.R. § 22.5(b).

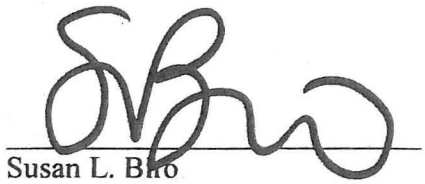
Confidential Business Information

The OALJ E-Filing System is **NOT** equipped either to accommodate or to protect the privacy of Confidential Business Information ("CBI"). Whenever a document is filed through the OALJ E-Filing System, the Presiding Officer will consider all business confidentiality claims **WAIVED**. A party submitting information to the Office of Administrative Law Judges for which a claim of confidentiality is made must do so by filing paper copies of that information in the manner described in the Consolidated Rules of Practice as modified by the Headquarters Hearing Clerk Pilot Project. *See* 40 C.F.R. § 22.5(d); *see also* 40 C.F.R. Part 2. However, a redacted version of the document alleged to contain CBI may be filed through the OALJ E-Filing System so long as the party claiming confidentiality also files the unredacted version in accordance with the aforementioned requirements. *See id.*

Further Information

More information about the OALJ E-Filing System can be found at www.epa.gov/oalj and https://yosemite.epa.gov/OA/EAB/EAB-ALJ Upload.nsf.

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

Dated: August 11, 2014
Washington, D.C.

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[3] Pursuant to the ongoing Headquarters Hearing Clerk Pilot Project, the Headquarters Hearing Clerk of the Office of Administrative Law Judges performs the duties of the Regional Hearing Clerk in administrative enforcement actions in which an answer is filed after May 1, 2012.

In The Matter of ***Polo Development, Inc., AIM Georgia, LLC, and Joseph Zdrilich, Respondents***
Docket No. CWA-05-2013-0003

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Notice On New Electronic Filing Procedures**, dated August 22, 2014, was sent this day in following manner to the addresses listed below:

Sybil Anderson
Office of Administrative Law Judges
U.S. Environmental Protection Agency
(202)564-6261

Dated: **August 22, 2014**

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