UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7 11201 RENNER BOULEVARD LENEXA, KANSAS 66219 BEFORE THE ADMINISTRATOR

Received by EPA Region 7 Hearing Clerk

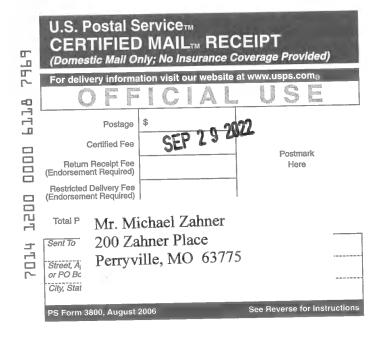
IN THE MATTER OF)
MICHAEL ZAHNER) PROOF OF SERVICE
and ZAHNER MANAGEMENT COMPANY, LLC	Docket No. CWA-07-2022-0141
Respondents)
Proceedings under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g))))

A Complaint and Notice of Opportunity for Hearing ("Complaint") was filed in this matter on September 28, 2022. A copy of the Complaint and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation / Termination or Suspension of Permits, 40 C.F.R. Part 22, were sent by certified mail to Michael Zahner as Respondent and as Respondent Zahner Management Company, LLC's Registered Agent.

Despite an apparent failure in the USPS delivery and/or tracking system, Mr. Zahner confirmed he received the documents on October 7, 2022. A copy of the certified mail receipts, USPS tracking, and Respondent's confirmation of receipt are attached to this filing.

RESPECTFULLY SUBMITTED this 24th day of October, 2022.

Shane E.C. McCoin
Assistant Regional Counsel





USPS Tracking[®]

FAQs >

Tracking Number:

Remove X

70141200000061187952

Copy Add to Informed Delivery (https://informeddelivery.usps.com/)

Latest Update

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility.

Delivered

Out for Delivery

Preparing for Delivery

Moving Through Network

In Transit to Next Facility

October 6, 2022

Departed USPS Regional Facility

SAINT LOUIS MO DISTRIBUTION CENTER October 2, 2022, 4:31 pm

Arrived at USPS Regional Facility

SAINT LOUIS MO DISTRIBUTION CENTER October 1, 2022, 6:34 pm

Arrived at USPS Regional Facility

KANSAS CITY MO DISTRIBUTION CENTER September 29, 2022, 8:54 pm

Hide Tracking History

Remove X

Text & Email Updates USPS Tracking Plus® Product Information

See Less ∧

Tracking Number:

70141200000061187969

Copy **Add to Informed Delivery** (https://informeddelivery.usps.com/)

Latest Update

Your package is moving within the USPS network and is on track to be delivered to its final destination. It is currently in transit to the next facility.

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Arrived at USPS Regional Facility

KANSAS CITY MO DISTRIBUTION CENTER September 29, 2022, 8:51 pm

See More ✓

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

From: Ford, Bill

To: <u>McCoin, Shane</u>; <u>Ford, Bill</u>

 Cc:
 shanna.mccormack@lathropgpm.com

 Subject:
 RE: Zahner - confirmation of service

 Date:
 Friday, October 21, 2022 7:45:47 AM

Attachments: <u>imagebebecb.PNG</u>

Shane,

My client believes he received the documents by mail on October 6 or 7. As you note he learned of the documents from his former counsel on September 29. For ease of compliance, what date will EPA use for calculation of our response?

Thanks.

Sent from my Verizon, Samsung Galaxy smartphone

Bill Ford

Partner Lathrop GPM LLP 2345 Grand Blvd., Suite 2200 Kansas City, MO 64108-2618 Direct: 816.460.5817

Mobile: 816.547.7388 bill.ford@lathropgpm.com lathropgpm.com

----- Original message -----

From: "McCoin, Shane" <mccoin.shane@epa.gov>

Date: 10/20/22 1:22 PM (GMT-05:00)

To: "Ford, Bill" <bill.ford@lathropgpm.com>

Cc: "McCormack, Shanna L." <shanna.mccormack@lathropgpm.com>

Subject: Zahner - confirmation of service

Bill,

I wanted to confirm the date of receipt by your client of both the UAO and Complaint. Could you please reply to provide me with a confirmation of the date?

As an explanation, this turns out to be a very unusual situation. I would like to confirm actual service because the certified mail has apparently been lost. We sent the Complaint, copy of Part 22, and UAO to Respondent by certified mail and by email to Respondent's former attorney. I believe Respondent actually received the documents from his former attorney, and I believe you are already using that date of service to calculate your deadlines. I have been tracking the certified mailings,

which we sent to two addresses – one we have for Respondent as himself and one listed with the Missouri Secretary of State for the registered agent of Zahner Management Company LLC. The USPS tracking shows that they are still "moving through network" after leaving St. Louis (see attached). The post office in Perryville confirmed they have not received them.

I need to file a proof of service with the Regional Hearing Clerk as required by 40 CFR 22.5(b)(1)(iii). I propose to file the certified mail receipts (showing we placed it in the mail) and a copy of the email I am requesting from you with the date your client received the documents.

Please let me know if you would like to discuss. Thank you in advance for your understanding and cooperation.

Shane

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I delivered this Proof of Service to the Regional Hearing Clerk, United States Environmental Protection Agency, by electronic mail to: R7 Hearing Clerk Filings@epa.gov.

I further certify that on the date noted below I sent by first class mail a true and correct copy of the Proof of Service to the Respondents:

Michael Zahner Respondent and Registered Agent Zahner Management Company 200 Zahner Place Perryville, Missouri 63775

I further certify that on the date noted below I sent by electronic mail a true and correct copy of the Proof of Service to representatives for Respondents:

Bill Ford bill.ford@lathropgpm.com

Shanna McCormack shanna.mccormack@lathropgpm.com

<u> </u>	 		
Signature			