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2
3 BEFORE THE
 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

4 In the Matter of:) DOCKET NO.
) CWA-10-2016-0109
5 Dave Erlanson, Sr., Individual)
) **STATUS REPORT AND JOINT**
6 Swan Valley, Idaho) **MOTION FOR ALTERNATIVE**
) **DISPUTE RESOLUTION**
7)

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9 In response to the Presiding Officer’s Order Granting Extension of Time dated
10 September 26, 2016, and pursuant to 40 C.F.R. § 22.18(d), Complainant Environmental
11 Protection Agency (“Complainant” or “EPA”) respectfully submits this Status Report and the
12 parties respectfully submit a Joint Motion for Alternative Dispute Resolution.

13 **I. Background**

- 14 1. On June 17, 2016, EPA initiated this enforcement action by issuance of a Complaint.
- 15 2. On July 14, 2016, Respondent filed an Answer, signed by Respondent Dave Erlanson,
16 Sr., denying the allegations in the Complaint and requesting an administrative
17 hearing.
- 18 3. On July 21, 2016, the Office of Administrative Law Judges offered an Alternative
19 Dispute Resolution (“ADR”) process. The ADR offer was not accepted by all parties
20 as required in the ADR letter.
- 21 4. On August 11, 2016, the Presiding Officer issued a Prehearing Order directing the
22 parties to engage in a settlement conference on or before September 16, 2016 and file
23 a Status Report regarding such conference on or before September 23, 2016.

1 5. On September 23, 2016, Mr. Mark Pollot filed a Notice of Appearance in this matter
2 as counsel for Respondent.

3 6. On September 23, 2016, counsel for the parties held an initial telephonic conference
4 in which they agreed to engage in a substantive settlement conference. On the same
5 day, Complainant filed a status report and motion for extension of prehearing
6 deadlines.

7 7. On September 26, 2016, the Presiding Officer granted Complainant's request for an
8 extension of time and directed the parties to engage in a settlement conference on or
9 before October 25, 2016.

10 **II. Status Report**

11 8. On October 25, 2016, the parties engaged in a telephonic settlement conference.

12 Despite good faith efforts, the parties were unable to reach settlement.

13 9. During the settlement conference, counsel for Respondent inquired about and
14 suggested engaging in ADR in order to facilitate settlement.

15 10. Both parties agreed that ADR may prove beneficial to the resolution of this matter.

16 Complainant informed Respondent, however, that Respondent, while still appearing
17 *pro se*, did not timely accept the July 20, 2016 offer for ADR issued in this case. That
18 offer expired on August 3, 2016.

19 11. Due to the circumstances described above, the parties agreed that it would be
20 appropriate for the parties to submit a joint motion to initiate ADR, consistent with 40
21 C.F.R. § 22.18(d), as described in the initial offer for ADR (Docket No. 5, at 3).

