

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Dave Erlanson, Sr., Individual,

Swan Valley, Idaho,

Respondent.

Docket No. CWA-10-2016-0109

**COMPLAINANT'S SUPPLEMENTAL
PREHEARING EXCHANGE**

Pursuant to 40 C.F.R. § 22.19 of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Complaint or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits” (“Part 22 Rules”), the Presiding Officer’s February 24, 2017 Second Prehearing Order, and the Presiding Officer’s Notice of Hearing Order of November 5, 2018, Complainant Environmental Protection Agency (“EPA” or “Complainant”) submits its Supplemental Prehearing Exchange.

**INFORMATION SUPPLEMENTING COMPLAINANT'S INITIAL AND REBUTTAL
PREHEARING EXCHANGES**

A. Witnesses

EPA provided a summary of expected testimony of proposed fact and expert witnesses in Complainant’s Initial Prehearing Exchange (Docket No. 23) and Rebuttal Prehearing Exchange (Docket No. 30). EPA respectfully submits the following supplements to the expected testimony of EPA’s witnesses Tara Martich and Cindi Godsey:

Tara Martich (fact): Ms. Martich works in the EPA’s Alaska Operations Office as an Ecologist and Compliance Officer. Ms. Martich has 14 years of experience within the Clean Water Act (CWA) section 402 compliance and enforcement program. As a Compliance Officer, Tara Martich has participated in settlement of over thirty enforcement cases, which included

developing penalty justifications based on EPA's *Interim Clean Water Act Settlement Penalty Policy* (March 1, 1995). Ms. Martich will testify about the CWA statutory penalty factors and EPA's assessment of the proposed penalty in this case. Ms. Martich will also testify about EPA's communications with Respondent relating to CWA permit requirements. CX – 08 (EPA letter to D. Erlanson, October 3, 2014); CX – 09 (Corps letter to D. Erlanson, February 11, 2014); CX – 10 (D. Erlanson, Joint Application for Permits, February 10, 2014); CX – 11 (EPA letter to D. Erlanson, August 7, 2015); CX – 12 (D. Erlanson, Notice of Intent, May 29, 2015).

Cindi Godsey (fact/expert): Ms. Godsey works in the EPA's Seattle Office as an Environmental Engineer in the Office of Water and Watersheds, NPDES Permits Unit. Her resume was included in Complainant's Initial Prehearing Exchange as CX – 31. Ms. Godsey received a Bachelor of Science degree in Mining Engineering from Michigan Technological University in 1981. Ms. Godsey has worked as a NPDES permits writer for approximately 25 years. In her capacity as a NPDES permit writer, Ms. Godsey has amassed detailed experience with CWA compliance and permitting issues for placer mining operations. Ms. Godsey was the permit writer for numerous individual placer mining permits and the NPDES General Permit for Alaska Mechanical Placer Miners (*See* CX – 13, EPA, Fact Sheet, Alaska Suction Dredge GP). Additionally, Ms. Godsey, since 2009, was assigned as the permit writer for the Idaho Suction Dredge GP. Ms. Godsey will testify regarding the history of EPA Region 10's CWA regulation of placer mining, including the development and implementation of the Idaho Small Suction Dredge Mining NPDES General Permit (hereinafter "Idaho Suction Dredge GP" or "General Permit"; CX – 03). Ms. Godsey will also testify as to the specific requirements included in the Idaho Small Section Dredge GP, the specific provisions in the

General Permit relating to discharge prohibitions and closed waters, the impact of noncompliance with NPDES permits on the permitting regime, and the current status of the General Permit. She may also testify as to a presentation provided to stakeholders and interested regulatory entities on the Idaho Suction Dredge GP. *See* CX – 07 (Tracy Peak, Idaho Suction Dredge GP Presentation).

B. Exhibits

EPA provides copies of exhibits CX – 41 and CX – 42 accompanying this Supplemental Prehearing Exchange, which EPA may introduce into evidence.

CX – 41 Resume of Tara Martich

CX – 42 California Department of Fish & Game, Final Subsequent Environmental Impact Report for Suction Dredge Permitting Program, 2012

CONCLUSION

This Supplemental Prehearing Exchange adds two proposed exhibits, and supplements only the proposed testimony and witness descriptions of Ms. Martich and Ms. Godsey due to the unavailability of Tracy Peak. The witnesses not included in this filing, should they be called, will testify as described in Complainant’s Initial Prehearing Exchange.

Dated this 14th day of December, 2018.

Respectfully submitted,

/s/ William M. McLaren

William M. McLaren
Assistant Regional Counsel
U.S. EPA, Region 10

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **COMPLAINANT’S SUPPLEMENTAL PREHEARING EXCHANGE**, dated December 14th, 2018, was filed electronically with the Clerk of the Office of Administrative Law Judges using the ALJ e-filing system, which sends a Notice of Electronic Filing to Respondent.

The undersigned also certifies that on this date she served the foregoing **COMPLAINANT’S SUPPLEMENTAL PREHEARING EXCHANGE**, via regular US Mail, postage prepaid, on Mark Pollot, Attorney for Respondent Dave Erlanson, Sr., at 772 E. Lava Falls St., Meridian, Idaho 83646 and via email at conresctr@cableone.net.

Dated this 14th day of December, 2018.

/s/ Shannon K. Connery

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