

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

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IN THE MATTER OF )

Docket No. CWA-01-2012-0032

CSG HOLDINGS, INC. (F/K/A )  
COLUMBIA SAND & GRAVEL, INC.)  
Columbia, NH )

**COMPLAINT AND NOTICE OF  
OPPORTUNITY FOR HEARING**

Respondent. )

Proposing to Assess a Civil Penalty )  
Under Section 309(g) of the Clean )  
Water Act, 33 U.S.C. § 1319(g) )  
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**I. STATEMENT OF AUTHORITY**

1. This administrative Complaint and Notice of Opportunity for Administrative Hearing (“Complaint”) is issued to CSG Holdings, Inc. (formerly known as Columbia Sand & Gravel, Inc.) (“Respondent” or “CSG Holdings”) pursuant to Sections 309(g) and 311(b)(6) of the Clean Water Act (“CWA” or the “Act”), 33 U.S.C. §§ 1319(g) and 1321(b)(6), as amended by the Oil Pollution Act of 1990, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. The Complainant is the Director, Office of Environmental Stewardship, United States Environmental Protection Agency, Region 1 (“EPA”).

2. Pursuant to Sections 309(g) and 311(b)(6) of the CWA, 33 U.S.C. §§ 1319(g) and 1321(b)(6), and in accordance with the Consolidated Rules of Practice, Complainant hereby provides notice of a proposal to assess a civil penalty against Respondent for the following violations of the Act: 1) discharging process water containing pollutants into navigable waters of the United States without authorization in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a); 2) discharging storm water associated with industrial activity into navigable waters of

the United States without authorization in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a); 3) failing to apply for a National Pollutant Discharge Elimination System (“NPDES”) permit, in violation of Sections 308(a) of the CWA, 33 U.S.C. § 1318(a); and 4) failing to comply with the Oil Pollution Prevention regulations set forth at 40 C.F.R. Part 112, promulgated under the authority of Section 311(j) of the CWA, 33 U.S.C. § 1321(j).

3. Pursuant to Section 309(g)(1) of the Act, EPA notified the State of New Hampshire of this action, and has consulted with the New Hampshire Department of Environmental Services (“NH-DES”) on this action.

## **II. STATUTORY AND REGULATORY BACKGROUND**

### **Discharge of Pollutants**

4. The CWA is designed to restore and maintain the chemical, physical, and biological integrity of the nation’s waters. Section 101(a) of the Act, 33 U.S.C. § 1251(a).

5. To accomplish the objectives of the Act, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into navigable waters except in compliance with the terms and conditions of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and EPA’s implementing regulations, found at 40 C.F.R. Part 122.

6. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), authorizes the Administrator of EPA to issue NPDES permits for the discharge of pollutants into navigable waters in compliance with the CWA.

7. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines “person” to include “an individual, corporation, partnership [or] association.”

8. Section 311(a)(7) of the CWA, 33 U.S.C. § 1321(a)(7), defines “person” to include “an individual, firm, corporation, association, [or] partnership.”

9. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”

10. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines “pollutant” to include, among other things, chemical wastes, biological materials, rock, sand, and industrial waste discharged into water.

11. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source” to include “any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged.”

12. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “the waters of the United States, including the territorial seas.”

13. Forty C.F.R. § 122.2 defines “waters of the United States” to include, among other things: (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; (ii) all inter-state waters; (iii) tributaries to such waters; and (iv) wetlands adjacent to such waters or their tributaries.

#### Storm Water Permits

14. Pursuant to Section 402(p)(2)(B), 33 U.S.C. § 1342(p)(2)(B), and EPA’s implementing regulations at 40 C.F.R. § 122.26, any storm water discharge “associated with industrial activity” must be authorized by a NPDES permit.

15. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes the Administrator of EPA to require the owner or operator of any point source to provide such information as the Administrator may reasonably need to carry out the objectives of the CWA, including, among other things, the development and issuance of NPDES permits under Section 402 of the CWA, 33 U.S.C. § 1342.

16. Pursuant to Sections 308 and 402 of the CWA, 33 U.S.C. §§ 1318 and 1342, EPA

promulgated storm water discharge regulations at 40 C.F.R. § 122.26.

17. Forty C.F.R. § 122.26(c)(1) provides that dischargers of storm water “associated with industrial activity” are required to apply for an individual permit, apply for a permit through a group application, or seek coverage under a general permit.

18. Forty C.F.R. § 122.26(b)(13) defines “storm water” to include storm water runoff, snow melt runoff, and surface runoff and drainage.

19. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and implementing regulation 40 C.F.R. § 122.26(a)(1)(ii) require that facilities discharging storm water associated with industrial activity obtain a permit.

20. Forty C.F.R. § 122.26(b)(14)(iii) specifies that “storm water discharge associated with industrial activity” includes storm water discharge from facilities classified under Standard Industrial Classification (“SIC”) codes 10 through 14, including 1442 (construction sand and gravel) and 1423 (crushed and broken granite).

21. On September 29, 1995, EPA issued a NPDES Storm Water Multi-Sector General Permit for Industrial Activities (“1995 MSGP”).<sup>1</sup> EPA re-issued the Multi-Sector General Permit for Industrial Activities on October 30, 2000 (“2000 MSGP”), 65 Fed. Reg. 64746, and re-issued it again on September 29, 2008 (“2008 MSGP”), 73 Fed. Reg. 56527.

22. Under the 2000 MSGP and the 2008 MSGP, a facility discharging storm water “associated with industrial activities” is required to submit a Notice of Intent (“NOI”), prepare and implement a Storm Water Pollution Prevention Plan (“SWPPP”), conduct inspections, conduct monitoring and sampling, and meet other eligibility requirements.

23. Under the 2000 MSGP, permit coverage became effective two days after

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<sup>1</sup> Under the 1995 MSGP, an NOI was required to be submitted by existing facilities within 90 days of the effective date of the permit (*i.e.*, December 28, 1995).

submission of a complete NOI, and a facility could terminate coverage under the 2000 MSGP by submitting a Notice of Termination (“NOT”). Compliance with the 2000 MSGP was required until a NOT is submitted.

24. Under the 2008 MSGP, permit coverage becomes effective thirty days after EPA has posted a copy of the NOI on the Internet.

#### Spill Prevention Control and Countermeasure Plan

25. Section 311(j)(1) of the Act, 33 U.S.C. § 1321(j)(1), provides that the President shall issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances . . . from onshore and offshore facilities, and to contain discharges . . . .”

26. Under the authority of Section 311(j)(1) of the Act, the Oil Pollution Prevention regulations, found at 40 C.F.R. Part 112, establish procedures, methods, and requirements for preventing the discharge of oil. These requirements apply to owners or operators of non-transportation-related facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil or oil products which, due to their location, could reasonably be expected to discharge oil in harmful quantities (as defined in 40 C.F.R. Part 110) to navigable waters of the United States or adjoining shorelines. 40 C.F.R. § 112.1(b). However, except as provided in 40 C.F.R. § 112.1(f), these requirements do not apply to the owner or operator of any facility which meets both of the following requirements:

- (1) the completely buried storage capacity of the facility is 42,000 U.S. gallons or less of oil; and
- (2) the aggregate aboveground storage capacity of the facility is 1,320 U.S. gallons or less of oil.

40 C.F.R. § 112.1(d)(2).

27. Under 40 C.F.R. § 112.3(a)(1), an owner or operator of an onshore facility that became operational prior to August 16, 2002 and that has discharged or, due to its location, could

reasonably be expected to discharge, oil in harmful quantities into or upon the navigable waters of the United States must prepare and fully implement a Spill Prevention, Control, and Countermeasure (“SPCC”) plan in accordance with 40 C.F.R. § 112.7.

### **III. GENERAL ALLEGATIONS**

28. At all times relevant to the allegations in this Complaint, CSG Holdings was a corporation organized under the laws of the State of New Hampshire with its principal place of business in Columbia, New Hampshire.

29. CSG Holdings is a “person” within the meaning of Sections 311(a)(7) and 502(5) of the CWA, 33 U.S.C. §§ 1321(a)(7), 1362(5).

30. At all times relevant to the allegations in this Complaint, CSG Holdings operated a facility with an address of U.S. Route 3 in Columbia, New Hampshire (the “Facility”).

31. The Facility’s property is divided into three sites: Site 1 is located on the west side of Route 3 and adjacent to the Connecticut River; Sites 2 and 3, on the east side of Route 3, are adjacent to each other, but separated by Beaver Brook.

32. At all times relevant to the allegations in this Complaint, CSG Holdings’ operations at the Facility included, but were not limited to, sand and gravel mining (SIC code 1442), stone mining (SIC code 1423), and aggregate processing, including crushing and screening (SIC codes 1442 and 1423) and washing (SIC codes 1442 and 1423).

33. At all times relevant to the allegations in this Complaint, CSG Holdings controlled all daily business and industrial operations at the Facility, and otherwise met the definition of “operator” of the Facility as defined at 40 C.F.R. §§ 112.2.

34. During operation of the aggregate wash plant located on Site 1 (the “Wash Plant”), process water travels overland into concrete settling bunkers, and then flows into settling ponds located in the northwest corner of Site 1 (the “Settling Ponds”).

35. On several occasions between 2004 and 2009, process water in the Settling Ponds was discharged from the Settling Ponds into Beaver Brook and/or the Connecticut River.

36. On numerous occasions between 2004 and 2010, process water from the Wash Plant flowed overland in a south-westerly direction into a catch basin located down gradient from the Wash Plant in a railroad right-of-way (the "ROW Catch Basin"), which discharged into the Connecticut River.

37. During storm events, storm water from the Facility flowed into catch basins, pipes, ditches, culverts, swales, and detention areas and discharged through outfalls into Beaver Brook or the Connecticut River.

38. Beaver Brook flows into the Connecticut River, which flows into Long Island Sound.

39. Beaver Brook and the Connecticut River are "waters of the United States," as defined at 40 C.F.R. § 122.2, and thereby are "navigable waters," as defined at Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

40. Process water discharged from the Settling Ponds and the ROW Catch Basin, described in paragraphs 35 and 36, and the storm water discharges described in paragraph 37 were contaminated with sand, total suspended solids, nitrate plus nitrite nitrogen, alkalinity ("pH"), biochemical oxygen demand, chemical oxygen demand, total iron, and petroleum based oils and greases.

41. These materials discharged into waters of the United States constitute "pollutants" within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

42. The catch basins, pipes, ditches, culverts, swales, detention areas, and outfalls discharging pollutants constitute "point sources" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

43. The process water and storm water discharges described in paragraphs 35, 36, and 37 resulted in the “discharge of pollutants,” as defined at Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

44. At all times relevant to the allegations in this Complaint, CSG Holdings conducted activities including but not limited to those associated with the operation of a sand and gravel mining and aggregate crushing, washing, and processing plant that have resulted in the discharge of “storm water associated with industrial activity,” as defined at 40 C.F.R. § 122.26(b)(14)(ii), to waters of the United States.

45. As “operator” of the Facility, CSG Holdings was required to obtain NPDES permit coverage for the industrial activity at the Facility, and then to comply with all requirements and conditions for operation under the CWA, its regulations, and the applicable permit.

46. Respondent failed to apply for an individual NPDES permit or for general coverage under the 2000 MGSP.

47. Respondent failed to apply for coverage under the 2008 MSGP until it submitted a NOI to EPA on October 6, 2010.

48. Respondent’s coverage under the 2008 MSGP became effective December 5, 2010.

49. Respondent is the “owner or operator,” within the meaning of Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), and 40 C.F.R. § 112.2, of the Facility.

50. At all times relevant to the allegations in this Complaint, Respondent engaged in storing, using, and consuming “oil” or oil products located at the Facility within the meaning of 40 C.F.R. § 112.2.

51. At all times relevant to the allegations in this Complaint, the Facility had an



aggregate above ground oil storage capacity greater than 1,320 gallons in containers each with a shell capacity of at least 55 gallons.

52. On or about December 1, 2010, Respondent arranged for the removal of one 275-gallon oil storage tank and one 55-gallon oil drum, thereby reducing the Facility's aggregate above ground oil storage capacity to 1,315 gallons.

53. The Facility is located in the Connecticut River and Beaver Brook flood plain.

54. The Facility is an "onshore facility" within the meaning of Section 311(a)(10) of the CWA, 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

55. The Facility is a "non-transportation-related" facility within the meaning of Appendix A to 40 C.F.R. Part 112, as incorporated by reference within 40 C.F.R. § 112.2.

56. Accordingly, the Facility is a non-transportation-related onshore facility which, due to its location, could reasonably be expected to discharge oil to navigable waters of the United States or its adjoining shorelines in a harmful quantity.

57. Respondent is therefore subject to the Oil Pollution Prevention regulations at 40 C.F.R. Part 112 at the Facility.

58. Pursuant to 40 C.F.R. § 112.3, the owner or operator of an SPCC-regulated facility in operation prior to August 16, 2002, shall have maintained and implemented an SPCC plan that is in accordance with the requirements of 40 C.F.R. § 112.7.

59. Respondent and/or its affiliates has owned and operated Site 1 since 1989, Site 2 since 1996, and Site 3 since 1999.

60. At all times relevant to the allegations in this Complaint, Respondent neither prepared nor implemented a SPCC plan for the Facility.

61. At all times relevant to the allegations in this Complaint, Respondent failed to adequately provide for measures which would prevent the discharge of oil from reaching waters

of the United States and to implement specific requirements listed in 40 C.F.R. §§ 112.7 and 112.8, in accordance with good engineering practice. The Facility lacked appropriate secondary containment for many of its aboveground bulk oil storage containers as required by 40 C.F.R. §§ 112.7(c) and 112.8(c), in violation of Section 311(j) of the CWA, 33 U.S.C. § 1321(j).

#### **IV. VIOLATIONS**

##### **COUNT 1**

###### **Unauthorized Discharge of Process Water**

62. Paragraphs 1 through 61 are incorporated by reference as if fully set forth herein.

63. By discharging process water into waters of the United States on numerous occasions from at least April 2007 through May 2010, without authorization under any NPDES permit, CSG Holdings violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

64. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 *et seq.*, the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.*, and the rule for Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§ 19.1-19.4 (61 Fed. Reg. 69360 (Dec. 31, 1996); 69 Fed. Reg. 7121 (Feb. 13, 2004); 73 Fed. Reg. 75340 (Dec. 11, 2008)), Respondent is subject to civil penalties of up to eleven thousand dollars (\$11,000) per day for each day prior to and including January 12, 2009, during which the violations continued, and up to sixteen thousand dollars (\$16,000) per day for each day after January 12, 2009, during which the violations continued, up to a maximum of one hundred and seventy-seven thousand five hundred dollars (\$177,500).

##### **COUNT 2**

###### **Unauthorized Discharge of Storm Water Associated with Industrial Activity**

65. Paragraphs 1 through 64 are incorporated by reference as if fully set forth herein.

66. By discharging storm water associated with industrial activity at the Facility during storm events from at least April 1, 2007 through December 5, 2010 without authorization under any NPDES permit, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

**Failure to Apply for a NPDES Permit for the Discharge  
of Storm Water Associated with Industrial Activity**

67. By failing to apply for an individual permit or submit an NOI seeking coverage under the 2000 MSGP and the 2008 MSGP, Respondent violated Section 308(a) of the CWA, 33 U.S.C. § 1318(a), each day from at least October 30, 2000, through October 5, 2010.

68. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 *et seq.*, the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.*, and the rule for Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§ 19.1-19.4 (61 Fed. Reg. 69360 (Dec. 31, 1996); 69 Fed. Reg. 7121 (Feb. 13, 2004); 73 Fed. Reg. 75340 (Dec. 11, 2008)), Respondent is subject to civil penalties of up to eleven thousand dollars (\$11,000) per day for each day prior to and including January 12, 2009, during which the violations continued, and up to sixteen thousand dollars (\$16,000) per day for each day after January 12, 2009, during which the violations continued, up to a maximum of one hundred and seventy-seven thousand five hundred dollars (\$177,500).

**COUNT 3**

**Failure to Prepare and Implement a  
Spill Pollution Control and Countermeasure Plan**

69. Paragraphs 1 through 68 are incorporated by reference as if fully set forth herein.

70. By failing to prepare and implement a SPCC plan for the Facility in accordance with the requirements of 40 C.F.R. §§ 112.7 and 112.8, as described above, Respondent violated 40 C.F.R. § 112.3 and Section 311(j) of the CWA, 33 U.S.C. § 1321(j) each day from at least

March 21, 2007 through December 1, 2010.

71. Pursuant to Section 311(b)(6)(B)(ii) of the Act, 33 U.S.C. § 1321(b)(6)(B)(ii), the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 *et seq.*, the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.*, and the rule for Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§ 19.1-19.4 (61 Fed. Reg. 69360 (Dec. 31, 1996); 69 Fed. Reg. 7121 (Feb. 13, 2004); 73 Fed. Reg. 75340 (Dec. 11, 2008)), Respondent is subject to civil penalties of up to eleven thousand dollars (\$11,000) per day for each day prior to and including January 12, 2009, during which the violations continued, and up to sixteen thousand dollars (\$16,000) per day for each day after January 12, 2009, during which the violations continued, up to a maximum of one hundred and seventy-seven thousand five hundred dollars (\$177,500).

#### **V. NOTICE OF PROPOSED ASSESSMENT OF CIVIL PENALTY**

72. Based upon the foregoing allegations and pursuant to the authority of Sections 309(g) and 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. §§ 1319(g) and 1321(b)(6)(B)(ii), the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 *et seq.*, the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.*, and the rule for Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§ 19.1-19.4 (61 Fed. Reg. 69360 (Dec. 31, 1996); 69 Fed. Reg. 7121 (Feb. 13, 2004); 73 Fed. Reg. 75340 (Dec. 11, 2008)), Complainant proposes that a Final Order assessing civil penalties be issued against Respondent of up to eleven thousand dollars (\$11,000) per day for each day prior to and including January 12, 2009, during which the violations continued, and up to sixteen thousand dollars (\$16,000) per day for each day after January 12, 2009, during which the violations continued, up to a maximum of one hundred and seventy-seven thousand five hundred dollars (\$177,500) for each of Count 1 (discharge of process water), Count 2 (discharge of stormwater and failure to apply for a NPDES

permit), and Count 3 (failure to prepare and implement a SPCC plan).

73. EPA is seeking a penalty from Respondent under Count 1 of up to eleven thousand dollars (\$11,000) per day for each day prior to and including January 12, 2009, and up to sixteen thousand dollars (\$16,000) per day for each day thereafter, for the duration of Respondent's violation, which was for a total of up to 544 days, up to a maximum of one hundred and seventy-seven thousand five hundred dollars (\$177,500).

74. EPA is seeking a penalty from Respondent under Count 2 of up to eleven thousand dollars (\$11,000) per day for each day prior to and including January 12, 2009, and up to sixteen thousand dollars (\$16,000) per day for each day thereafter, for the duration of Respondent's violation, which was for a total of up to 1,294 days, up to a maximum of one hundred and seventy-seven thousand five hundred dollars (\$177,500).

75. EPA is seeking a penalty from Respondent under Count 3 of up to eleven thousand dollars (\$11,000) per day for each day prior to and including January 12, 2009, and up to sixteen thousand dollars (\$16,000) per day for each day thereafter, for the duration of Respondent's violation, which was for a total of up to 1,350 days, up to a maximum of one hundred and seventy-seven thousand five hundred dollars (\$177,500).

76. The process water violations alleged in Count 1 above represent significant violations of the CWA because of the extent and duration of the violations and because untreated and unmanaged process water from aggregate wash plant operations may contain pollutants that reduce the oxygen levels in surface waters and have the potential to stress aquatic animals and plants. When they settle, solids can form sediment deposits on the bottom of the water body that destroy the bottom fauna and the spawning grounds of fish. Process wastewater from aggregate wash plant operations may also contain metals from petroleum fuels and lubricating oils, volatile organic compounds, and certain products (acids and caustics) with low and high pH

characteristics, which can have significant effects on water quality and the aquatic ecosystem, including but not limited to effects on oxygen demand, interference with photosynthesis, and disruption to the aquatic food chain.

77. The storm water violations alleged in Count 2 above represent significant violations of the CWA because of the extent and duration of the violations and because compliance with the federal storm water program is important to ensuring that storm water runoff does not contribute to the impairment of water quality. Untreated and unmanaged storm water from aggregate wash plant operations may contain the same pollutants and have the same significant effects on water quality and aquatic life as those described in paragraph 76 above.

78. The violations of the Oil Pollution Prevention regulations alleged in Count 3 above represent significant violations of the CWA because failure to fully prepare and implement an adequate SPCC plan leaves a facility unprepared to deal with an oil spill and to prevent a spill from having potentially serious environmental consequences.

79. Prior to any hearing on this case, EPA will file a document specifying a proposed penalty, as required by the Consolidated Rules of Practice, taking into account the nature, circumstances, extent, and gravity of the violation, or violations, and Respondent's prior compliance history, the degree of culpability for the cited violations, any economic benefit or savings accruing to Respondent resulting from the violations, Respondent's ability to pay the proposed penalties, and such other matters as justice may require.

## **VI. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

80. Pursuant to Sections 309(g) and 311(b)(6) of the Act, 33 U.S.C. §§ 1319(g) and 1321(b)(6), and 40 C.F.R. § 22.14, notice is hereby given that Respondent has the right to request a hearing on any material fact alleged raised in this Complaint and on the appropriateness of any proposed penalty. Any such hearing would be conducted in accordance with the

Consolidated Rules of Practice, 40 C.F.R. Part 22, a copy of which is enclosed. Members of the public, to whom EPA is obliged to give notice of this proposed action, have a right under Sections 309(g)(4)(B) and 311(b)(6)(C) of the Act, 33 U.S.C. §§ 1319(g)(4)(B) and 311(b)(6)(C), to comment on any proposed penalty and to be heard and to present evidence at the hearing.

81. Respondent's Answer must comply with 40 C.F.R. § 22.15 and must be filed with the Regional Hearing Clerk at address listed below within thirty (30) days of receipt of the Complaint. To be entitled to a hearing, Respondent must include its request for a hearing in its Answer to the Complaint.

82. The original and one copy of the Answer, as well as a copy of all other documents which Respondent files in this action, must be sent to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: ORA18-1)  
Boston, Massachusetts 02109-3912

Respondent should also send a copy of the Answer, as well as a copy of all other documents which Respondent files in this action, to Laura J. Berry, the attorney assigned to represent EPA and designated to receive service in this matter at:

Laura J. Berry  
Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100 (Mail Code: OES04-2)  
Boston, Massachusetts 02109-3912

83. If Respondent fails to file a timely Answer to this Complaint, it may be found to be in default, pursuant to 40 C.F.R. § 22.17, which constitutes an admission of all the facts alleged in the Complaint and a waiver of the right to a hearing.

84. Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in any default order shall

become due and payable by Respondents without further proceedings thirty (30) days after the default order becomes final.

**VII. CONTINUED COMPLIANCE OBLIGATION**

85. Neither assessment nor payment of a civil penalty pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), shall affect Respondent's continuing obligation to comply with the CWA, the regulations promulgated thereunder, or any other applicable requirements of Federal, State, or local law.

Susan Studlien  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency  
Region 1 – New England

03/19/12  
Date