UNITED STATES DISTRICT COURT

FOR THE -DISTRICT OF -

IN THE MATTER OF: ) MISC. NO.

UNITED STATES of AMERICA, Petitioner )

)

V. )

)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, )

Respondent )

)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

PETITION FOR ENFORCEMENT OF AN ADMINISTRATIVE SUBPOENA

ISSUED BY THE ENVIRONMENTAL PROTECTION AGENCY

The United States of America, through the Attorney General, and at the request of the Regional Administrator, United States Environmental Protection Agency (EPA) Region **[insert]**, hereby petitions the court for an Order to Show Cause why the Respondent should not be ordered to comply forthwith with the administrative subpoena previously served upon [him/her/it].

In support of this Petition, the Petitioner alleges as follows:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 9622(e)(3)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.
2. **[insert name here]**, the Regional Administrator of Region **[insert]** of the EPA, **[city]**, **[state]** has requested that the Attorney General commence this action.
3. The Respondent, **[insert name],** is [*short description, e.g. “former owner of a waste transporting and disposal business.” Be sure to identify as an owner or corporation.*]
4. Section 122(e)(3)(B) of CERCLA, as amended, 42 U.S.C. § 9622(e)(3)(B), grants the President the authority to issue administrative subpoenas to gather information necessary to implement § 122 (Settlements). Such information includes, inter alia, the nature and extent of contamination at the site, possible remedies and the identities of potentially responsible parties.
5. The President delegated the authority to issue administrative subpoenas under CERCLA to the Administrator of the EPA on January 23, 1987 by Executive Order 12580 (52 *Fed. Reg*. 2923, January 29, 1987). This authority was, in turn, delegated from the Administrator to the Regional Administrators by Delegation 14-6, "Inspections, Sampling, Information Gathering, SuP3enas and Entry for Response," signed September 13, 1987. (Attached)
6. In conjunction with the investigation at **[site]**, and pursuant to Section 122(e)(3)(B) of CERCLA, as amended, 42 U.S.C. § 9622(e)(3)(B), Petitioner issued an administrative subpoena on **[date]**, directing the Respondent to [*provide certain information*.] The subpoena is attached and incorporated herein as Exhibit A. Anaffidavit of service is attached as Exhibit B.

[7. By letter dated **[insert date]**, Respondent requested Petitioner to extend the return date of the subpoena. Respondent's letter is attached as Exhibit C.

[8. By letter dated **[insert date]**, Petitioner denied Respondent's request and reaffirmed the subpoena date **[insert date]**. Petitioner's letter is attached as Exhibit D.]

1. On **[insert date]**, the return date specified in the subpoena, [Respondent **[select:** failed to appear to testify; failed to answer certain questions put to him; failed to provide the information requested by subpoena.**]** [**Note:** *Where a Respondent has failed to answer specific questions, or has not provided certain documents, those questions or documents should be specified.*]

**WHEREFORE**, the Petitioner respectfully prays that:

1. This Court enter an Order to Show Cause directed to the Respondent, ordering the Respondent:
   1. to appear expeditiously and Show Cause why the subpoena should not be enforced against [him/her/it], and
   2. to file expeditiously a written response to the allegations in the Petition by a date certain.
2. This Court enter an Order at the conclusion of these proceedings enforcing the EPA subpoena and requiring the Respondent to comply fully with the terms of the EPA subpoena.
3. This court render such other and further relief as is just and proper.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Respectfully submitted,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AFFIDAVIT OF SERVICE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

I hereby certify that being a person over 18 years of age, I served a copy of the attached subpoena:

(check one) ( ) in person

( ) by registered mail

( ) by leaving the copy at the principal place of business, which is,

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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( ) by other method:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

on the person named on the subpoena on **[insert date here]**.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 Signature of server

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 Name of server

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 Title of server