

CERTIFICATE OF SERVICE

I hereby certify that the Order Accepting Amended Answer And Rescheduling Status Teleconference by Regional Judicial Officer Helen Ferrara in the matter of Leroux Oil Co., Docket No. CWA-02-2009-3810, was served on the parties as indicated below:

First Class Mail - Joseph A. Giorgi, Esq.  
Attorney and Counselor at Law  
125 State Street, Suite 400  
Rochester, New York 14614

Inter Office Mail - Eduardo J. Gonzalez, Esq.  
Office of Regional Counsel  
USEPA - Region II  
290 Broadway, 16<sup>th</sup> Floor  
New York, New York 10007-1866

  
Karen Maples  
Regional Hearing Clerk  
USEPA - Region II

Dated: December 16, 2009

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

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IN THE MATTER OF: :

Leroux Oil Co., :

Docket No. CWA-02-2009-3810

Respondent :

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**ORDER ACCEPTING AMENDED ANSWER AND SCHEDULING STATUS  
TELECONFERENCE**

An Amended Answer and Notice Regarding Change of Attorney was filed in this matter by Kevin M. Young, as Attorney for Respondent, on November 5, 2009, within the thirty day period for filing an answer to a Complaint set forth in 40 CFR § 22.15 (a).

By electronic message dated November 19, 2009, the Undersigned requested that Respondent's Attorney file a formal motion pursuant to 40 CFR § 22.15(e) requesting that the Undersigned accept the Amended Answer.

On November 25, 2009, Respondent's attorney filed a Motion to File an Amended Answer, and by electronic message dated December 14, 2009, Complainant's attorney informed Respondent and the Undersigned that the Complainant had no objection to the filing of the Amended Answer.

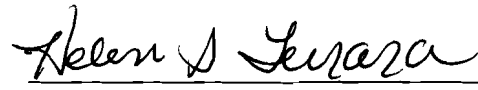
In light of the considerations set forth herein, the Undersigned issues the following **ORDER**.

**IT IS ORDERED:**

**The Respondent's Motion to File Amended Answer is granted.**

**A status teleconference is hereby scheduled for January 26, 2010 at 10:00AM. The details of the teleconference are set forth in Attachment A to this Order.**

**Dated: December 16, 2009**

  
Helen S. Ferrara  
Presiding Officer

**ATTACHMENT A**

**PREHEARING TELECONFERENCE:  
LEROUX OIL CO., EPA Docket No. CWA-02-2009-3810**

Helen S. Ferrara has been designated as the Presiding Officer in the referenced proceeding, involving the proposed assessment of a Class I civil penalty under Section 311(b)(6) of the Clean Water Act, 33 U.S.C. § 1321(b)(6). The proceeding is governed by EPA's 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, 40 C.F.R. Part 22, published at 64 Fed. Reg. 40137 (July 23, 1999).

**PREHEARING CONFERENCE:**

Section 22.19(b) of the Consolidated Rules allows the Presiding Officer to hold a prehearing conference among all the parties to consider: (1) Settlement of the case; (2) Simplification of issues and stipulation of facts not in dispute; (3) The necessity or desirability of amending the pleadings; (4) The exchange of exhibits, documents, prepared testimony, and admissions or stipulations of fact which will avoid unnecessary proof; (5) The limitation of the number of expert or other witnesses; (6) The time and place for the hearing; and (7) Any other matters which may expedite the disposition of the proceeding. The conference may be held by telephone. 40 C.F.R. § 22.19(d).

Accordingly, a **prehearing conference will be held by telephone on Tuesday, January 26, 2010, beginning at 10:00 AM**, or as soon thereafter as the Presiding Officer can make the necessary arrangements. Unless you advise the Presiding Officer otherwise, she will call Mr. Gonzalez at (212) 637-3223 and Mr. Young at (518) 438-9907 extension 225. Please be prepared to discuss the matters enumerated in the preceding paragraph.

**ADMINISTRATIVE RECORD:**

The Regional Hearing Clerk maintains the administrative record for this proceeding under § 22.5 of the Consolidated Rules. Please make sure that all documents you wish included in the record are properly filed with the Regional Hearing Clerk, with copies to the opposing party and to the Presiding Officer, whose address is:

Helen S. Ferrara  
Presiding Officer  
U. S. Environmental Protection Agency-Region 2  
290 Broadway - 16<sup>th</sup> Floor  
New York, New York 10007-1866

If you cannot be available for the prehearing conference at the time scheduled, or if you have any questions about these procedures, please contact the Presiding Officer immediately at (212) 637-3233. In doing so, please be mindful of § 22.8 of the Consolidated Rules **Ex parte discussion of proceeding**. The Consolidated Rules preclude one-party discussion with the Presiding Officer or other Agency officials, involved in this case or likely to advise these officials, of the merits of this case. If you need to discuss the merits with the Presiding Officer please arrange to have opposing counsel participate in the discussion. The substance of your settlement discussions, if any, should not be divulged to her because it could affect her neutrality.