

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

06 NOV 20 AM 10:36

In the Matter of )  
)  
Homkor of Missouri, Inc. )  
)  
)  
)  
)  
Respondent )

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

Docket No. TSCA-07-2006-0178

Prehearing Order

As you have been previously notified, I have been designated to preside in the above captioned matter. This proceeding arises under the authority of Section 16(a), 15 U.S.C. § 2615(a), of the Toxic Substances Control Act ("TSCA"). The EPA Rules of Practice ("Rules"), applicable in this administrative enforcement proceeding, are found in 40 C.F.R. Part 22.

As provided in the Rules, §22.18(a), it is the Agency's policy to encourage settlement of proceedings without the necessity of a formal hearing. However, the continuation of settlement negotiations will not provide good cause for not meeting the following schedule set in this Prehearing Order.

The schedule can now be set for the filing of prehearing exchanges under 40 C.F.R. §22.19 in accord with the following procedure:

1. Each party shall submit a list of all expert and other witnesses it intends to call with a brief narrative summary of their expected testimony; and copies of all documents and exhibits it intends to introduce into evidence. The exhibits should include a resume for each proposed expert witness.
2. The Complainant shall submit a statement explaining in detail how the proposed penalty amount was determined, including a description of how the specific provisions of any EPA penalty or enforcement policies or guidelines were applied in calculating the penalty.
3. The Respondent is directed to clarify whether its defense admits liability but challenges the appropriateness of the penalty sought by EPA.
4. If the Respondent intends to take the position that it is unable to pay the proposed penalty, or that payment will have an adverse effect on Respondent's ability to continue in business, Respondent shall furnish supporting documentation such as financial statements or tax returns.
5. The Complainant shall submit a statement on the applicability of the Paperwork Reduction Act ("PRA"), 44 U.S.C. § 3501 *et seq.*, to this proceeding, including whether there is a current Office of Management and Budget control number involved and whether the provisions of Section 3512 of the PRA may apply to this case.

The Parties must simultaneously make their initial prehearing exchanges by Tuesday, **January 16, 2007**. If Respondent does not intend to present a direct case, but does wish to cross-examine Complainant's witnesses, it must submit a statement to that effect instead of a prehearing exchange.

Upon completion of the prehearing exchanges, the parties are directed to confer with one another in order to determine those issues which remain genuinely in dispute, so that the hearing may be focused on such matters. The parties shall then submit a statement to me identifying those issues.

The original and one copy of all filings, with attachments, shall be sent to the Regional Hearing Clerk, and copies sent to the opposing party and the Administrative Law Judge.

The parties are reminded that, pursuant to the Consolidated Rules of Practice, at the hearing an original and one copy of each exhibit shall be filed with the undersigned Presiding Judge for the record (an exhibit notebook binder is appreciated) and a copy furnished to each party. A true copy of any exhibit may be substituted for the original. **Please be sure that copies are legible with printing on one side only.**

  
\_\_\_\_\_  
William B. Moran  
United States Administrative Law Judge

Dated: November 17, 2006  
Washington, DC

If sending by:  
**Fed Ex, UPS or any type of Courier service**

Judge William B. Moran  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Franklin Court Building  
1099 14<sup>th</sup> Street N.W. Suite 350  
Washington, DC 20460

If sending by:  
**Regular U.S. mail**

Judge William B. Moran  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., N.W.  
**Mail Code 1900L**  
Washington, DC 20005

CERTIFICATE OF SERVICE

I certify that the foregoing **Prehearing Order**, dated, November 17, 2006, was sent this day in the following manner to the addressees listed below:

Original by Pouch Mail to:

Kathy Robinson  
Regional Hearing Clerk  
U.S. EPA  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

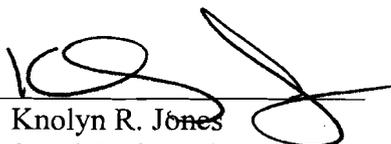
Copy by Regular Mail to:

Attorney for Complainant:

Chris R. Dudding, Esq.  
Assistant Regional Counsel  
U.S. EPA - Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, KS 66101

Attorney for Respondent:

Shawna M. Bligh, Esq.  
The session Law Firm  
2600 Grand Blvd., Suite 440  
Kansas City, MO 64108

  
\_\_\_\_\_  
Knolyn R. Jones  
Legal Staff Assistant

Dated: November 17, 2006