



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

November 20, 2012

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Water & General Law Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway – 16th Floor
New York, New York 10007

Kevin M. Young, Esq.
Attorney for Respondent
Young/Sommer LLC
5 Palisades Drive
Albany, NY 12205

RE: Burton F. Clark, Inc., EPA Docket No. CWA-02-2012-3311

Dear Counsel:

I have been designated as the Presiding Officer in the referenced proceeding, involving the proposed assessment of a civil penalty under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). 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, I will hold the **prehearing conference by telephone on Tuesday, December 18, 2012, beginning at 10:00 AM**, or as soon thereafter as I can make the necessary arrangements. Unless you advise me otherwise, I will call Ms. Murphy at (212) 637-3211 and Mr. Young at (518) 438-9907. Please be prepared to discuss the matters enumerated in the preceding paragraph.

ADMINISTRATIVE RECORD:

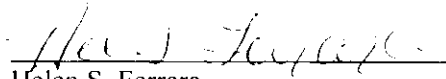
The Regional Hearing Clerk maintains the administrative record for this proceeding under § 22.5 of the Consolidated Rules. Please make sure that all documents you wish included in the record are properly filed with the Regional Hearing Clerk, with copies to the opposing party and to the Presiding Officer.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

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

If you cannot be available for the prehearing conference at the time I have scheduled, or if you have any questions about these procedures, please contact my office 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 me, please arrange to have opposing counsel participate in the discussion. The substance of your settlement discussions, if any, should not be divulged to me because it could affect my neutrality.

Thank you for your cooperation in this matter.

Very truly yours,


Helen S. Ferrara
Presiding Officer

cc: Karen Maples, Regional Hearing Clerk (original)

Presiding Officer File