



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG.II  
2012 SEP 18 P 3:12  
REGIONAL HEARING  
CLERK

BEFORE THE ADMINISTRATOR

In the Matter of )

Oil Energy Systems, Inc. )

Respondent )

) Docket No. RCRA-02-3011-7107

) Dated: September 14, 2012

**Order Postponing Hearing**

The Order Scheduling Hearing in this proceeding set the hearing in this matter to commence on September 18, 2012. On or about September 10, 2012, Complainant submitted a Joint Motion for an Extension and Status Report, seeking an extension of thirty (30) days to file the Consent Agreement and Final Order ("CAFO") to settle this matter. Grounds stated in the Motion are that Complainant has received Respondent's comments to the CAFO and expects to discuss the comments and have a CAFO that both parties can agree to no later than September 13, 2012, after which Respondent will sign the CAFO and it will be put into the concurrence and approval process for final execution. The title of the Motion is a misnomer in that the request is not merely for an extension of a due date, but is a request for postponement of the hearing.

The Rules of Practice governing this proceeding, 40 C.F.R. part 22, provide, "No request for postponement of a hearing shall be granted except upon motion and for good cause shown." 40 C.F.R. § 22.21(c). Agency policy supports settlement, and it is in the interest of the parties and of judicial economy to resolve this dispute by mutual agreement. See 40 C.F.R. § 22.18(b). Where a CAFO has been agreed upon and will fully resolve this proceeding, there is good cause to provide time for the parties to complete execution of the CAFO without losing their opportunity for a hearing in the event the CAFO is not approved. In the circumstances of this case, postponement of the hearing is appropriate.

For good cause shown, Complainant's Motion is **GRANTED**. Accordingly, the parties shall file a fully executed Consent Agreement and Final Order on or before **October 9, 2012**.

If the parties are unable to meet this deadline, they shall prepare for a hearing in this matter. The hearing in this matter is hereby rescheduled to begin promptly at 9:30 a.m. on Tuesday, November 13, 2012, continuing if necessary, through November 16, 2012, unless the parties file a fully executed Consent Agreement and Final Order first. The Regional Hearing Clerk will make appropriate arrangements for a courtroom. The parties will be notified of the exact location and of other procedures pertinent to the hearing when those arrangements are complete.

Individuals requiring special accommodations at the hearing, including wheelchair access, should contact the Regional Hearing Clerk, as soon as possible so that appropriate arrangements can be made.

**RESPONDENT IS HEREBY ADVISED THAT FAILURE TO APPEAR AT THE HEARING, WITHOUT GOOD CAUSE BEING SHOWN THEREFOR, MAY RESULT IN A DEFAULT JUDGMENT BEING ENTERED AGAINST IT. COMPLAINANT IS HEREBY ADVISED THAT FAILURE TO APPEAR AT THE HEARING MAY RESULT IN DISMISSAL OF THIS MATTER.**

If either party does not intend to attend the hearing, or has good cause for not being able to attend the hearing as scheduled, it shall notify the undersigned at the earliest possible moment.

**SO ORDERED.**



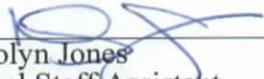
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M. Lisa Buschmann  
Administrative Law Judge

In the ADR Matter of *Oil Energy Systems, Inc.*, Respondent.  
Docket No. RCRA-02-2011-7107

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Postponing Hearing**, dated September 14, 2012 was sent this day in the following manner to the addressees listed below.

  
\_\_\_\_\_  
Knolyn Jones  
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

Karen Maples  
Regional Hearing Clerk  
US EPA, Region II  
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One Copy by Pouch Mail to:

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One Copy by Regular Mail to:

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