



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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In the Matter of:)
Paco Swain Realty, L.L.C.,) Docket No. CWA-06-2012-2712
Respondent) Dated: October 22, 2014

ORDER SCHEDULING HEARING

The prehearing exchange process in this matter has been completed and there are no pending motions. An Order on Complainant's Motion for Accelerated Decision was issued July 23, 2014, granting the motion on Respondent's liability for the violations alleged in the Complaint, but denying the motion as to the penalty. Pursuant to that Order, Complainant filed a Status Report on August 29, 2014, which stated that the parties had not made substantial progress toward settlement. Therefore, the matter may be scheduled for hearing.

Agency policy strongly supports settlement. Complainant shall file a report on or before November 21, 2014, and again on or before December 31, 2014, as to the status of any settlement discussions. In the event the parties fail to reach a settlement, they shall strictly comply with the following requirements of this Order and prepare for a hearing.

- 1. All prehearing motions, such as motions for subpoenas or motions in limine, must be filed on or before November 28, 2014. This deadline does not apply to motions to supplement the prehearing exchange.
2. On or before December 19, 2014, the parties shall file a Joint Set of Stipulated Facts, Exhibits, and Testimony. The time allotted for the hearing is limited. Therefore, the parties must make a good faith effort to stipulate, as much as possible, to matters which cannot reasonably be contested so that the hearing can be concise and focused solely on those matters which can only be resolved after a hearing. Stipulated exhibits are lists of: (1) proposed exhibits in the Prehearing Exchange which the parties agree are admissible in evidence, and (2) proposed exhibits to which the opposing party does not object with respect to authenticity. Stipulated testimony is direct testimony or part of direct testimony, in written form, of a witness who will appear at the hearing and be available for cross examination, which testimony the parties agree is admissible in evidence.
3. The parties are reminded that under 40 C.F.R. § 22.19, any document or exhibit not

included in the prehearing exchanges may not be admitted into evidence, and any witness whose name and testimony summary are not included in the prehearing exchange shall not be allowed to testify at hearing unless conditions of 40 C.F.R. § 22.22(a) are met. If a party wishes to add a proposed witness or exhibit to its prehearing exchange, it must file a timely motion to supplement the prehearing exchange no later than **December 31, 2014**, explaining why the witness or exhibit was not included in the initial prehearing exchange. Motions filed after this date will not be considered absent extraordinary circumstances.

4. The parties may, if they wish, file prehearing briefs, which may substitute for an opening statement at the hearing. The deadline for filing such briefs is **January 2, 2015**. A copy of the briefs must be emailed (oaljfilng@epa.gov), faxed and/or hand-delivered to the undersigned by that date. Complainant's brief should at a minimum specifically state each count of the Complaint, and each claim therein, which are to be tried at the hearing and indicate which counts/claims are not. Respondent's brief at a minimum should identify each of the defenses Respondent intends to pursue at the hearing.

The hearing in this matter will be held beginning promptly at 9:00 a.m. on Thursday, January 15, 2015, and continuing if necessary, on Friday, January 16, 2015. The hearing will be held at the following location:

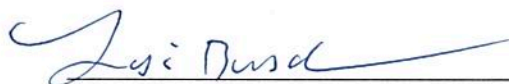
State of Louisiana
19th Judicial District Court
Courtroom 6A
300 North Boulevard
Baton Rouge, LA 70801

Individuals requiring special accommodations at the hearing, including wheelchair access, should contact the Headquarters 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.

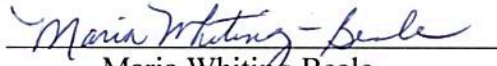


M. Lisa Buschmann
Administrative Law Judge

In the Matter of Paco Swain Realty, L.L.C., Respondent
Docket No. CWA-06-2012-2712

CORRECTED CERTIFICATE OF SERVICE

I certify that the foregoing **Order Scheduling Hearing**, dated October 22, 2014, was sent this day in the following manner to the addressees listed below:



Maria Whiting-Beale
Staff Assistant

Original and One Copy By Hand Delivery To:

Sybil Anderson
Headquarters Hearing Clerk
U.S. EPA/Office of Administrative Law Judges
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Dated: October 22, 2014
Washington, DC