



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Joseph Oh)
)
and) Docket No. RCRA-10-2011-0164
)
Holly Investment, LLC)
)
Respondents.)

ORDER SCHEDULING HEARING

The prehearing exchange process in this matter has been completed and there are no pending motions. Therefore, the matter may be scheduled for hearing.

The Complaint alleges in Paragraph 2.4 that Joseph Oh is the governing member of Holly Investment, LLC. Respondent Joseph Oh's Answer responds that "Joseph Oh lacks sufficient knowledge or information to form a belief as to the truth of the statement and therefore denies same." In the Prehearing Order dated December 7, 2011, this Tribunal noted that the Answer to the Complaint had apparently been filed by Respondent Joseph Oh in his individual capacity, and that the Regional Judicial Officer therefore retained jurisdiction over the proceeding against Respondent Holly Investment, LLC. However, on March 1, 2012, Mr. Oh filed a document titled "Respondent's Initial Prehearing Exchange" in which he identified the singular "Respondent" as being both himself and Holly Investments, LLC. To resolve the confusion created by this ambiguity, **Respondent Joseph Oh is hereby ORDERED** to file a statement no later than **March 23, 2012**, clarifying:

- (1) whether he represents Holly Investments, LLC, in this proceeding, and
- (2) whether the Answer dated October 24, 2011, was or was not intended to be submitted on behalf of both himself and Holly Investments, LLC.

Failure of a party to file a timely answer to the complaint may result in a default judgment assessing the proposed penalty. In addition, a party's failure to comply with an order of the Administrative Law Judge may result in a default judgment assessing the full amount of the proposed penalty. 40 C.F.R. § 22.17(a). Respondent's Prehearing Exchange was filed two weeks after the due date. Therefore Respondent Joseph Oh is advised to timely submit its

statement as directed above to avoid being held in default.

Furthermore, the Prehearing Order instructed each party to include in its prehearing exchange a statement indicating where the party wants the hearing in this matter to be held. The "Respondent's Initial Prehearing Exchange" does not contain such a statement. Therefore, Respondent Joseph Oh is also ordered to file a statement no later than **March 23, 2012**, indicating the city or county in which he would prefer the hearing in this matter to be held.

Agency policy strongly supports settlement. The parties are directed to hold a settlement conference and attempt to reach an amicable resolution of this matter. Complainant shall file a status report regarding such conference and the status of settlement on or before **March 30, 2012**.

In the event the parties have failed to reach a settlement by that date, they shall strictly comply with the requirements of this Order and prepare for a hearing. If any party intends to file any dispositive motion regarding liability, such as a motion for accelerated decision or motion to dismiss under Rule 22.20(a), it shall file such motion on or before **April 2, 2012**. The filing of a potentially dispositive motion does not stay the deadlines established by this Order and will not constitute good cause for failure to comply with this Order's requirements.

All non-dispositive prehearing motions, such as motions for subpoenas or motions in limine, must be filed on or before **May 18, 2012**. This deadline does not apply to motions to supplement the prehearing exchange.

On or before **June 1, 2012**, 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.

The parties are reminded that any document or exhibit not included in the prehearing exchanges shall 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. If a party wishes to add a proposed witness, document, or exhibit to its prehearing exchange, it must file a timely motion to supplement the prehearing exchange no later than **June 11, 2012**. Motions filed after this date will not be considered absent extraordinary circumstances.

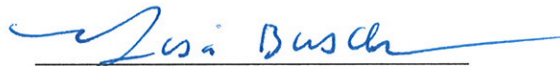
The parties may, if they wish, file prehearing briefs. The deadline for filing such briefs is **June 15, 2012**. Furthermore, a copy of the briefs must be faxed and/or hand-delivered to the undersigned by that date. Complainant's brief should specifically state each count of the Complaint, and each claim therein, which are to be tried at the hearing and indicate which counts/claims are not. Respondent's brief should identify each of the defenses Respondent intends to pursue at the hearing.

The hearing in this matter will be held beginning promptly at 9:30 a.m. on Tuesday, June 26, 2012, at a location to be determined, continuing if necessary, on June 27–29, 2012. 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.



M. Lisa Buschmann
Administrative Law Judge

Dated: March 13, 2012
Washington, D.C.

**In the Matter of Joseph Oh and Holly Investment, LLC, Respondents.
Docket No. RCRA-10-2011-0164**

CERTIFICATE OF SERVICE

I hereby certify that true copies of this **Order Scheduling Hearing**, issued by M. Lisa Buschmann, Administrative Law Judge, in Docket No. RCRA-10-2011-0164, were sent to the following parties on this 13th day of March 2012, in the manner indicated:



Knolyn Jones
Legal Staff Assistant

Original and One Copy by Email and Regular Mail to:

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**Dated: March 13, 2012
Washington, DC**