



UNITED STATES
 ENVIRONMENTAL PROTECTION AGENCY
 BEFORE THE ADMINISTRATOR

U.S. ENVIRONMENTAL
 PROTECTION AGENCY-REG.11
 2011 FEB 28 A 11:09
 REGIONAL HEARING
 CLERK

IN THE MATTER OF)
)
 USVI DEPARTMENT OF HEALTH-) DOCKET NO. RCRA-02-2010-7111
 DIVISION OF ENVIRONMENTAL)
 HEALTH- ST. THOMAS & ST. CROIX,)
)
)
)
 RESPONDENT)

ORDER DENYING RESPONDENT'S REQUEST TO STAY PREHEARING ORDER

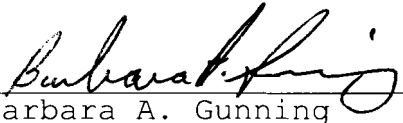
On November 29, 2010, this office sent to the parties a letter inviting them to participate in the Alternative Dispute Resolution ("ADR") process offered to facilitate the settlement of adjudicative cases. The ADR notification letter stated that ADR would be used only if both parties accept ADR and that notification of voluntary acceptance of ADR must be made by December 13, 2010. Respondent agreed to participate in ADR by that date. However, Complainant did not respond and was deemed to have declined its participation in ADR. Thereafter, the case was assigned to the undersigned as a litigation matter.

In a Prehearing Order entered January 19, 2011, the parties were directed to file their respective prehearing exchanges, commencing March 25, 2011.

On January 31, 2011, Respondent submitted a Request to Stay Prehearing Order ("Request") pending its request for ADR. In support of its Request, Respondent asserts that it indeed had timely requested ADR.^{1/} The record before me reflects that although Respondent accepted ADR, Complainant did not respond and was deemed

^{1/} In its Request, Respondent incorrectly states that the undersigned cited in footnote number 2 of the the Prehearing Order that Respondent did not respond to ADR notification letter. Rather, as stated in the Prehearing Order, it was Complainant that did not respond to the letter.

to have declined its participation in ADR. Participation in ADR is voluntary and ADR will be used in a case only if both parties accept ADR. Inasmuch as Complainant has not requested ADR, Respondent's Request is **Denied**.



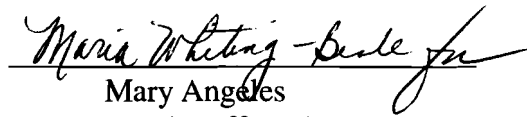
Barbara A. Gunning
Administrative Law Judge

Dated: February 25, 2011
Washington, DC

In the ADR Matter of *USVI Department of Health- Division of Environmental Health - St. Thomas & St. Croix*, Respondent
Docket No. RCRA-02-2010-7111

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Denying Respondent's Request To Stay Prehearing Order**, dated February 25, 2011, was sent in the following manner to the addressees listed below.


Mary Angeles
Legal Staff Assistant

Original and One Copy By Pouch Mail to:

Karen Maples
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Copy by Regular Mail to:

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St. Thomas, VI 00802

Dated: February 25, 2011
Washington, D.C.