



UNITED STATES  
 ENVIRONMENTAL PROTECTION AGENCY  
 BEFORE THE ADMINISTRATOR

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IN THE MATTER OF )  
 )  
 RODNEY O. CORR, ) DOCKET NO. CWA-04-2008-5508  
 )  
 )  
 )  
 )  
 RESPONDENT )

**ORDER SEEKING CLARIFICATION AND DIRECTING SETTLEMENT CONFERENCE**

As you previously have been notified, I have been designated by the January 22, 2009 Order of the Chief Administrative Law Judge to preside in the above captioned matter.<sup>1/</sup> This proceeding arises under the authority of Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act ("CWA"), as amended, 33 U.S.C. § 1319(g). The proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Rules of Practice"), 40 C.F.R. §§ 22.1-32. The parties are advised to familiarize themselves with both the applicable statute(s) and the Rules of Practice.

United States Environmental Protection Agency ("EPA") policy, found in the Rules of Practice at Section 22.18(b), 40 C.F.R. § 22.18(b), encourages settlement of a proceeding without the necessity of a formal hearing. The benefits of a negotiated settlement may far outweigh the uncertainty, time, and expense associated with a litigated proceeding.

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<sup>1/</sup> In response to an inquiry from this office, Complainant did not agree to participate in the Alternate Dispute Resolution ("ADR") process offered by this office. Respondent declined to participate in ADR by failing to respond to the ADR inquiry letter.

There is no indication in the file that settlement discussions have been held in this matter. The parties are directed to hold a settlement conference on this matter on or before **February 23, 2009**, to attempt to reach an amicable resolution of this matter. See Section 22.4(c)(8) of the Rules of Practice, 40 C.F.R. § 22.4(c)(8). Complainant shall file a status report regarding such conference and the status of settlement on or before **March 2, 2009**.

Respondent, in its *pro se* letter Answer, did not request a hearing. Nonetheless, Respondent questioned Complainant's authority over this matter and denied the allegations. Specifically, Respondent raises the question of whether the area in question is a jurisdictional wetland under the CWA.

As noted above, the above captioned matter is governed by the Rules of Practice, 40 C.F.R. §§ 22.1-22.32. Section 22.15(b) of the Rules of Practice provides, in pertinent part, that the answer to a complaint shall state whether a hearing is requested. However, subsection (c) of Section 22.15 further provides that if the respondent does not request a hearing, a hearing may be held by the Administrative Law Judge if issues appropriate for adjudication are raised in the answer. See *In re Green Thumb Nursery, Inc.*, FIFRA Appeal No. 95-4a, 6 E.A.D. 782, 786-94 (EAB, Mar. 6, 1997).

In view of Respondent's failure to request a hearing, Respondent is directed to clarify its position as to whether a hearing before an Administrative Law Judge is requested. Such clarification statement by Respondent shall be filed on or before **February 17, 2009**.

The original and one copy of all pleadings, statements, and documents (with any attachments) required or permitted to be filed by this Order (including a ratified Consent Agreement and Final Order) shall be filed with the Regional Hearing Clerk, and copies (with any attachments) shall be sent to the undersigned and all other parties. The parties are advised that E-mail correspondence with the Administrative Law Judge is not authorized. See Section 22.5(a) of the Rules of Practice, 40 C.F.R. § 22.5(a).

The statements and information required by this Order to be sent to the undersigned Administrative Law Judge, as well as any other further pleadings, if sent by mail, shall be addressed as follows:

another delivery service which x-rays their packages as part of their routine security procedures, may be delivered directly to the Offices of the Administrative Law Judges at 1099 14th Street, NW, Suite 350, Washington, DC 20005.

Telephone contact may be made with my legal staff assistant, Mary Angeles at (202) 564-6281. The facsimile number is (202) 565-0044.

  
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Barbara A. Gunning  
Administrative Law Judge

Dated: January 26, 2009  
Washington, DC

**In the Matter of *Rodney O. Corr*, Respondent.  
Docket No. CWA-04-2008-5508**

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Seeking Clarification and Directing Settlement Conference**, dated January 26, 2009, was sent this day in the following manner to the addressees listed below.



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Mary Angeles  
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

Patricia Bullock  
Regional Hearing Clerk  
U.S. EPA / Region IV  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

Copy by Pouch Mail to:

Wilda W. Cobb, Esq.  
Associate Regional Counsel  
U.S. EPA, Region IV  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

Copy by Regular Mail to:

Rodney O. Corr  
P.O. Box 3258  
Bay Saint Louis, MS 39521

**Dated: January 26, 2009  
Washington, D.C.**