

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

FILED  
2011 JAN 25 PM 3:57  
REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of: )  
)  
Enerco Operating Corp., ) CWA-06-2010-1901  
)  
Respondent. )

**AMENDED SCHEDULING ORDER**

On January 20, 2011, Complainant filed Complainant's Motion for Postponement of Scheduling Order Deadlines ("Motion") requesting a 45 day extension of the deadlines established in the Notice of Assignment and Initial Scheduling Order ("Initial Scheduling Order"), beginning with the due date for the prehearing exchange. In support of its Motion, Complainant asserts that the parties have been engaged in productive settlement negotiations and that additional time is needed to determine if a settlement of the matter can be reached. Based on the entire record in this case and for good cause shown, Complainant's Motion is granted, and

**IT IS ORDERED:**

1. Both Complainant and Respondent shall submit a prehearing exchange, as provided for in 40 C.F.R. §§ 22.52 and 22.19(a), for use at the hearing to be held in this matter. The prehearing exchange shall be filed no later than **March 14, 2011**. This submission shall, at a minimum, include:
  - a. The name of each witness, including experts, each party intends to present at the hearing, as well as a brief description of the witness' connection to the case, the witness' qualifications (in the case of an expert witness), and a narrative of the witness' expected testimony. If the Respondent does not plan to call any witnesses (and thus rely solely on cross-examination of the Complainant's witnesses), Respondent must affirmatively state that it does not plan to call any witnesses at the hearing.
  - b. A statement as to whether any witness will need an interpreter in order to testify, and, if so, what language.
  - c. A statement as to whether any special accommodations under the Americans with Disabilities Act are needed for counsel or any witness or party representative.
  - d. Copies of exhibits (including an index of the exhibits) intended for introduction into evidence at the hearing. The documents shall be submitted as part of the prehearing exchange even if they previously have been filed with the Regional Hearing Clerk. The exhibits shall include a resume or curriculum vitae for each

proposed expert witness. If Respondent does not plan to introduce any exhibits into evidence, Respondent must affirmatively state that it does not plan to introduce any exhibits into evidence at the hearing.

The exhibits shall be identified as "Complainant's" or "Respondent's" exhibit, as appropriate, and numbered with Arabic numerals (for example, "Complainant's Ex. 1").

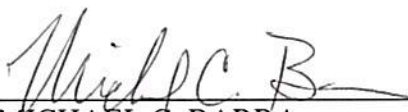
Documents used solely for impeachment do not have to be included.

- e. A statement of the party's estimate of how long it will take to put on its case.
  - f. A statement of the party's position regarding the location of the hearing, keeping in mind that the rules provide that the hearing shall be held in the county where the Respondent resides or conducts the business which the hearing concerns, in the city in which the relevant Environmental Protection Agency Regional Office is located, or in Washington, D.C., unless the Presiding Officer determines that there is good cause to hold it in another location. 40 C.F.R. §§ 22.21(d) and 22.19(d).
  - g. The Complainant shall provide an explanation of how its proposed penalty was calculated in accordance with the criteria set forth in the Safe Drinking Water Act.
  - h. The Respondent shall provide an explanation of why the proposed penalty should be mitigated or eliminated.
2. Any response by a party to the prehearing exchange filed by the other party shall be filed not later than **March 29, 2011**.
  3. The parties shall participate in a prehearing conference with the Presiding Officer on **April 5, 2011, beginning at 2:00 P.M. central time**. The parties should be prepared to address the matters identified in 40 C.F.R. § 22.19(b) during the conference. The conference will be conducted by telephone. Each party shall join the call by calling the following **dial in number: 866-299-3188**. At the prompt, dial in the following **conference code: 214-665-2143, followed by the # sign**. If a party encounters problems connecting to the call, immediately contact Lorena Vaughn, the Regional Hearing Clerk, at 214-665-8021.

Failure by the Complainant or the Respondent to comply with the prehearing exchange requirements or to appear for the telephone conference may result in that party being found in default. 40 C.F.R. § 22.17(a). Failure by a party to list witnesses or submit documents as part of the prehearing exchange may result in exclusion of those witnesses from testifying or the documents not being admitted into evidence. 40 C.F.R. §§ 22.19(a) and 22.22(a).

The Complainant's or the Respondent's failure to comply with any part of this Order may result in any sanction authorized by 40 C.F.R. Part 22.

It is so ordered, this 25<sup>th</sup> day of January 2011.

  
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MICHAEL C. BARRA  
REGIONAL JUDICIAL OFFICER

CERTIFICATE OF SERVICE

I, Lorena S. Vaughn, the Regional Hearing Clerk, do hereby certify that a true and correct copy of the Amended Scheduling Order for CWA 06-2010-1901 was provided to the following on the date and in the manner stated below:

John F. Peiserich  
Perkins & Trotter, P.L.L.C.  
P.O. Box 251618  
Little Rock, Arkansas 72225-1618

CERTIFIED MAIL

Efren Ordonez  
U.S. Environmental Protection Agency  
1445 Ross Avenue  
Dallas, Texas 75202

INTEROFFICE MAIL



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Lorena S. Vaughn  
Regional Hearing Clerk

1-25-11  
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Date