



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

January 7, 2009

Pedro Nieves-Miranda, Esq.  
Assistant Regional Counsel  
Office of Regional Counsel  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency, Region 2  
Centro Europa Building, Suite 417  
1492 Ponce de Leon Avenue  
San Juan, Puerto Rico 00907

Rafael A. Machargo, Esq.  
P.O. Box 193005  
San Juan, Puerto Rico 00919

**RE: Victor Morales; EPA Docket No. CWA-02-2008-3357**

Dear Counsel:

I have been designated as the Presiding Officer in the referenced proceeding, involving the proposed assessment of a Class I civil penalty under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). The proceeding is governed by EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, published at 64 Fed. Reg. 40137 (July 23, 1999).

**PREHEARING CONFERENCE:**

Section 22.19(b) of the Consolidated Rules allows the Presiding Officer to hold a prehearing conference among all the parties to consider: (1) Settlement of the case; (2) Simplification of issues and stipulation of facts not in dispute; (3) The necessity or desirability of amending the pleadings; (4) The exchange of exhibits, documents, prepared testimony, and admissions or stipulations of fact which will avoid unnecessary proof; (5) The limitation of the number of expert or other witnesses; (6) The time and place for the hearing; and (7) Any other matters which may expedite the disposition of the proceeding. The conference may be held by telephone. 40 C.F.R. § 22.19(d).

Accordingly, I will hold the **prehearing conference by telephone on Tuesday, February 3, 2009, beginning at 10:00 AM EST**, or as soon thereafter as I can make the necessary arrangements. Unless you advise me otherwise, I will call Mr. Nieves at (787) 977-5822 and Mr. Machargo at (787) 653-3225. Please be prepared to discuss the matters enumerated in the preceding paragraph.

**ADMINISTRATIVE RECORD:**

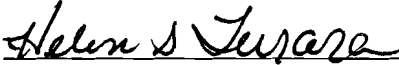
The Regional Hearing Clerk maintains the administrative record for this proceeding under § 22.5 of the Consolidated Rules. Please make sure that all documents you wish included in the record are properly filed with the Regional Hearing Clerk, with copies to the opposing party and to the Presiding Officer. My address is:

Helen S. Ferrara  
Presiding Officer  
U. S. Environmental Protection Agency-Region 2  
290 Broadway - 16<sup>th</sup> Floor  
New York, New York 10007-1866

If you cannot be available for the prehearing conference at the time I have scheduled, or if you have any questions about these procedures, please contact my office immediately at (212) 637-3233. In doing so, please be mindful of § 22.8 of the Consolidated Rules **Ex parte discussion of proceeding**. The Consolidated Rules preclude one-party discussion with the Presiding Officer or other Agency officials, involved in this case or likely to advise these officials, of the merits of this case. If you need to discuss the merits with me, please arrange to have opposing counsel participate in the discussion. The substance of your settlement discussions, if any, should not be divulged to me because it could affect my neutrality.

Thank you for your cooperation in this matter.

Very truly yours,

  
Helen S. Ferrara  
Presiding Officer

cc: Karen Maples, Regional Hearing Clerk (original)  
Regional Judicial Officer File