

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2013 JAN 23 AM 8:06

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
Richard Smith, Owner)
Lodore Supper Club and Saloon)
Sheridan, Wyoming)
)
Respondent.)
_____)

Proceeding under Section 1414(g)
of the Safe Drinking Water Act,
U.S.C. § 300g-3(g)

Docket No. SDWA-08-2012-0056

**ORDER TO FILE DISPOSITIVE MOTIONS AND
PREHEARING INFORMATION EXCHANGE**

On January 22, 2013, the parties held a conference call in my presence to discuss how the matter was proceeding toward settlement. The parties stated they had discussed settlement and no agreement was reached to date. Mr. Smith, who is pro se, indicated he was planning to file a Motion to Dismiss and wanted to proceed in a timely manner.

Therefore, pursuant to 40 C.F.R. § 22.20 of the 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 ("Consolidated Rules"), the parties may file a Motion for Accelerated Decision or a Motion to Dismiss on or before **February 28, 2013**.

Pursuant 40 C.F.R. § 22.19, the parties shall file a prehearing exchange of information. The prehearing exchange shall include all documents and witnesses intended to be introduced as evidence at the hearing. See, 40 C.F.R. § 22.19(a)(1)-(4). Specifically, the prehearing exchange shall also include the following:

1. **Complainant and Respondent** – Pursuant to 40 C.F.R. § 22.19(a)(4) all factual information each party considers relevant to the assessment of a penalty shall be included in the prehearing exchange.
2. **Respondent** – Any financial information necessary to show an inability to pay the penalty if Respondent is claiming such.

Prehearing exchanges will be submitted consecutively according to the following schedule:

Complainant's Prehearing Exchange is due on or before March 15, 2013.

Respondent's Prehearing Exchange is due on or before April 12, 2013.

Complainant's Rebuttal Prehearing Exchange is due on or before April 26, 2013.

Pursuant to 40 C.F.R. § 22.19(b), a prehearing conference will be held within two weeks after the completion of prehearing exchange to determine if any additional discovery is necessary and to schedule a hearing date.

Pursuant to 40 C.F.R. §§ 22.19(d) and 22.21(d) the location of the prehearing conference and the hearing "shall be held in the county where the respondent resides or conducts the business which the hearing concerns, in the city which the relevant Environmental Protection Agency Regional Office is located....unless the Presiding Officer determines that there is good cause to hold it at another location or by telephone." In their respective prehearing exchange, the parties shall advise the court of their preference for the location of the prehearing conference and hearing.

ORDER

1. Dispositive motions are due **March 1, 2013**.
2. Prehearing exchanges are due **March 15, 2013, April 12, 2013, and April 26, 2013 respectively;**
3. Second Prehearing Conference will be held on **May 2, 2013**. The place and time is yet to be determined.

SO ORDERED This 23rd Day of January, 2013.



Elyana R. Sutin
Presiding Officer

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ORDER TO FILE DISPOSITIVE MOTIONS AND PREHEARING INFORMATION EXCHANGE** in the matter of **RICHARD SMITH, OWNER, LODORE SUPPER CLUB AND SALOON, DOCKET NO.: SDWA-08-2012-0056** was filed with the Regional Hearing Clerk on January 23, 2013.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, Margaret "Peggy" Livingston, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on January 23, 2013, to:

Richard Smith, Owner
Lodore Supper Club and Saloon
P. O. Box 6044
Sheridan, WY 82801

E-mailed to:

Honorable Elyana R. Sutin
Regional Judicial Officer
U. S. Environmental Protection Agency
1595 Wynkoop Street (8RC)
Denver, CO 80202

January 23, 2013



Tina Artemis
Paralegal/Regional Hearing Clerk

