



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Summit, Inc.,) Docket No. RCRA-05-2014-0006
)
Respondent.) Dated: September 9, 2015

ORDER SCHEDULING HEARING

The prehearing exchange process in this matter has been completed and there are no pending motions. Therefore, the matter may be scheduled for hearing.

Agency policy strongly supports settlement. Complainant shall file a report on or before **October 20, 2015**,¹ and again on or before **December 16, 2015** and **February 22, 2016**, as to the status of any settlement discussions. In the event the parties fail to reach a settlement, they shall strictly comply with the following requirements of this Order and prepare for a hearing.

1. All non-dispositive prehearing motions, such as motions for subpoenas or motions in limine, must be filed on or before **January 15, 2016**. This deadline does not apply to motions to supplement the prehearing exchange.
2. On or before **February 12, 2016**, the parties shall file a Joint Set of Stipulated Facts, Exhibits, and Testimony. The time allotted for the hearing is limited. Therefore, the parties must make a good faith effort to stipulate, as much as possible, to matters which cannot reasonably be contested so that the hearing can be concise and focused solely on those matters which can only be resolved after a hearing. Stipulated exhibits are lists of: (1) proposed exhibits in the Prehearing Exchange which the parties agree are admissible in evidence, and (2) proposed exhibits to which the opposing party does not object with respect to authenticity. Stipulated testimony is direct testimony or part of direct testimony, in written form, of a witness who will appear at the hearing and be available for cross examination, which testimony the parties agree is admissible in evidence.
3. The parties are reminded that under 40 C.F.R. § 22.19, any document or exhibit not included in the prehearing exchanges may not be admitted into evidence, and any witness whose name and testimony summary are not included in the prehearing exchange shall

¹ In a joint status report filed August 27, 2015, the parties requested additional time to negotiate a settlement while Respondent collects additional information for the Complainant, and asked that a report not be due prior to this date.

not be allowed to testify at hearing, unless conditions of 40 C.F.R. § 22.22(a) are met. If a party wishes to add a proposed witness or exhibit to its prehearing exchange, it must file a timely motion to supplement the prehearing exchange no later than **February 22, 2016**, explaining why the witness or exhibit was not included in the initial prehearing exchange. Motions filed after this date will not be considered absent extraordinary circumstances.

4. The parties may, if they wish, file prehearing briefs, which may substitute for an opening statement at the hearing. The deadline for filing such briefs is **February 26, 2016**. The undersigned prefers that the parties file their briefs electronically,² although they also may be faxed and/or hand-delivered to the undersigned by that date in accordance with 40 C.F.R. Part 22. Complainant's brief should at a minimum specifically state each count of the Complaint, and each claim therein, which are to be tried at the hearing and indicate which counts/claims are not. Respondent's brief at a minimum should identify each of the defenses Respondent intends to pursue at the hearing.

5. Individuals requiring special accommodations at the hearing, including translators or wheelchair access, should contact the Headquarters Hearing Clerk, as soon as possible so that appropriate arrangements can be made. In any event, such notification should be made no later than **February 5, 2016**. The Headquarters Hearing Clerk may be contacted as follows:

Sybil Anderson, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
anderson.sybil@epa.gov
(202) 546-6261

6. The hearing in this matter will be held beginning promptly at **9 a.m. Tuesday, March 8, 2016**, and will continue as necessary through March 11, 2016, at the following location:

**Everett McKinley Dirksen United States Courthouse
219 South Dearborn Street
Room 1838
Chicago, Illinois 60604**

RESPONDENT IS HEREBY ADVISED THAT FAILURE TO APPEAR AT THE

² For further instruction on electronic filing, the parties should consult the Notice on New Electronic Filing Procedures issued in this case on August 22, 2014, and the Office of Administrative Law Judges' e-filing system, <https://yosemite.epa.gov/OA/EAB/EAB-ALJ Upload.nsf/HomePage?ReadForm>.

HEARING, WITHOUT GOOD CAUSE BEING SHOWN THEREFOR, MAY RESULT IN A DEFAULT JUDGMENT BEING ENTERED AGAINST IT. COMPLAINANT IS HEREBY ADVISED THAT FAILURE TO APPEAR AT THE HEARING MAY RESULT IN DISMISSAL OF THIS MATTER.

If either party does not intend to attend the hearing, or has good cause for not being able to attend the hearing as scheduled, it shall notify the undersigned at the earliest possible moment.

SO ORDERED.



M. Lisa Buschmann
Administrative Law Judge

In the Matter of Summit, Inc., Respondent
Docket No. RCRA-05-2014-0002

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Scheduling Hearing**, dated September 9, 2015, was sent this day in the following manner to the addressees listed below.



Maria Whiting-Beale
Staff Assistant

Original And One Copy To:

Sybil Anderson
Headquarters Hearing Clerk
U.S. EPA
Mail Code 1900R
1200 Pennsylvania Avenue, NW
Washington, DC 20460-2001

Copy By Regular Mail And E-Mail To:

Richard Clarizio, Attorney
Associate Regional Counsel
U.S. EPA
77 West Jackson Boulevard, C-14J
Chicago, IL 60604-3590
clarizio.richard@epa.gov

Mark A. Thiros, Esquire
Thiros & Stracci, P.C.
200 East 90th Drive
Merillville, IN 46410-8102
Mark@Thiros.com

Dated: September 10, 2015
Washington, DC