

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of)
)
Bricks, Incorporated,) Docket No. CWA-5-2000-012
)
Respondent)
)

Order

On January 10, 2001, respondent Bricks, Incorporated (“Bricks”), filed a Motion in Limine seeking to exclude testimony and other evidence concerning area flooding, soil erosion and sediment control. Respondent argues that this evidence has no relevance to the Clean Water Act violation alleged in this case. In that regard, the respondent argues that these are matters of state and local regulation only.

In response, the U.S. Environmental Protection Agency argues that evidence regarding flood and erosion control address the penalty factors set forth in Section 309(g) of the CWA, which include “nature, circumstances, extent and gravity of the violation.” 33 U.S.C. § 1319(g). Whether it is respondent, or complainant, who is correct is a matter which cannot be determined at this time.

Accordingly, the Motion in Limine is *denied*. Bricks, however, may renew its objections at the hearing when the proposed testimony and any related exhibits now objected to appear in a clearer context.

Carl C. Charneski
Administrative Law Judge

Issued: January 16, 2001
Washington, D.C.