

10/10/96

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

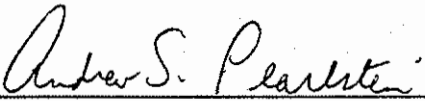
In the Matter of)	
)	
Taylor-McIlhenny)	Docket No. OPA-09-95-01
Operating Co., Inc.,)	
)	
Respondent)	

ORDER DENYING POSTPONEMENT OF HEARING

Complainant has submitted a motion, dated October 7, 1996 for postponement of the hearing in this matter scheduled for December 3, 1996. The motion falls far short of showing good cause for a postponement.

The only reason given is to await receipt and review of Respondent's tax returns sought from the Internal Revenue Service through an authorization form executed by Respondent. The motion does not explain why such tax returns could not be forwarded directly by Respondent, or why they will not be available before the hearing, which is still almost two months away. Even if there is a problem in obtaining those tax returns, this alone is no reason to postpone the hearing. If Respondent is claiming an inability to pay the proposed penalty, the ultimate burden of proof on that issue still rests with Respondent, not Complainant. The issues concerning Respondent's liability and other penalty factors, such as environmental harm, which will be addressed by the witnesses listed in the prehearing exchange, remain unaffected.

Therefore, Complainant's motion to postpone the hearing is denied. The hearing will take place as scheduled, barring a settlement or other good cause shown to cancel the hearing in any subsequent motion.



 Andrew S. Pearlstein
 Administrative Law Judge

Dated: October 10, 1997
Washington, D.C.

In the Matter of Taylor-McIlhenny Operating Company., Inc.
Docket No. OPA-09-95-01

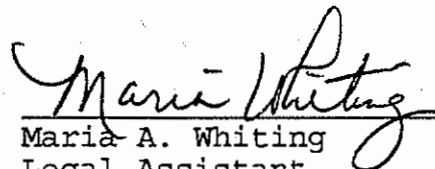
CERTIFICATE OF SERVICE

I certify that the foregoing Order Denying Postponement of Hearing, dated October 10, 1996, was sent by regular mail to the addressees listed below:

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Dated: October 10, 1996
Washington, D.C.