



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
MUNICIPALITY OF LAS PIEDRAS,) DOCKET NO. CWA-02-2009-3456
)
)
RESPONDENT)

ORDER SCHEDULING HEARING

This proceeding arises under the authority of Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act ("CWA"), as amended, 33 U.S.C. § 1319(g).^{1/} Complainant seeks a civil administrative penalty of \$47,738. The parties are reminded that this proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (the "Rules of Practice"), 40 C.F.R. §§ 22.1-22.32.

The parties have filed their initial prehearing exchanges in this matter pursuant to the undersigned's Prehearing Order

^{1/} The Complaint alleges violation of Sections 308 and 402 of the CWA, 33 U.S.C. §§ 1318 and 1342, and proposes the assessment of a civil administrative penalty of \$47,738 under Section 309(g)(2)(B) of the CWA. A hearing on the record in accordance with Section 554 of Title 5 shall be held in civil penalty cases under Section 309(g)(2)(B) of the CWA (class II civil penalty). Sections 309(g)(4)(A) and (B) of the CWA provide that before issuing an order assessing a class II civil penalty, the Administrator shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order and that any person who comments on a proposed assessment of a class II penalty shall be given at least 20 days notice of any hearing and of the order assessing such penalty. See 40 C.F.R. § 22.45. The file before me contains no documentary proof of the publication of the public notice or the filing of comments, if any, described above.

entered on September 30, 2009, as amended by a March 24, 2010, Order on Respondent's Motion to Show Cause. Complainant retains the right to submit a rebuttal to Respondent's prehearing exchange. The parties also retain the right to make a motion to supplement their prehearing exchanges no later than fifteen (15) days before the hearing date. Sections 22.19(a) and 22.22(a) of the Rules of Practice, 40 C.F.R. §§ 22.19(a), 22.22(a), provide that documents or exhibits that have not been exchanged and witnesses whose names have not been exchanged at least fifteen (15) days before the hearing date shall not be admitted into evidence or allowed to testify unless good cause is shown for failing to exchange the required information.

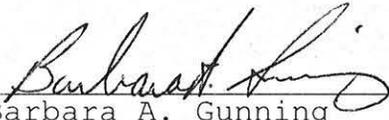
Further, the parties are advised that every motion filed in this proceeding must be served in sufficient time to permit the filing of a response by the other party and to permit the issuance of an order on the motion before the deadlines set by this order or any subsequent order. Section 22.16(b) of the Rules of Practice, 40 C.F.R. § 22.16(b), allows a fifteen-day (15) period for responses to motions and Section 22.7(c), 40 C.F.R. § 22.7(c), provides for an additional five (5) days to be added thereto when the motion is served by mail. The parties are hereby notified that the undersigned will not entertain last minute motions to amend or supplement the prehearing exchange absent extraordinary circumstances.

United States Environmental Protection Agency ("EPA") policy, found in the Rules of Practice at Section 22.18(b), 40 C.F.R. § 22.18(b), encourages settlement of a proceeding without the necessity of a formal hearing. The benefits of a negotiated settlement may far outweigh the uncertainty, time, and expense associated with a litigated proceeding. However, the pursuit of settlement negotiations or an averment that a settlement in principle has been reached will not constitute good cause for failure to comply with the requirements or schedule set forth in this Order.

As the parties have not reached a settlement in this matter, they shall strictly comply with the requirements of this Order and prepare for a hearing. In connection therewith, on or before **June 30, 2010**, the parties shall file a joint set of stipulated facts, exhibits, and testimony. See Section 22.19(b)(2) of the Rules of Practice, 40 C.F.R. § 22.19(b)(2). 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.

The Hearing in this matter will be held beginning at 9:30 a.m. on Tuesday, July 27, 2010, in San Juan, Puerto Rico, continuing if necessary through July 30, 2010. The Regional Hearing Clerk will make appropriate arrangements for a courtroom and retain a stenographic reporter. The parties will be notified of the exact location and of other procedures pertinent to the hearing when those arrangements are complete. Individuals requiring special accommodation at this hearing, including wheelchair access, should contact the Regional Hearing Clerk at least five business days prior to the hearing so that appropriate arrangements can be made.

IF ANY 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.



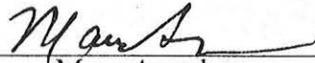
Barbara A. Gunning
Administrative Law Judge

Dated: May 20, 2010
Washington, DC

**In the ADR Matter of *Municipality of Las Piedras*, Respondent.
Docket No. CWA-02-2009-3456**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Scheduling Hearing**, dated May 20, 2010, was sent this day in the following manner to the addressees listed below.



Mary Angeles
Legal Staff Assistant

Original and One Copy by Facsimile and Pouch Mail to:

Karen Maples
Regional Hearing Clerk
US EPA, Region II
290 Broadway, 16th Floor
New York, NY 10007-1866
Fx: 212.637.3247

One Copy by Facsimile and Pouch Mail to:

Roberto M. Durango, Esq.
Assistant Regional Counsel
U.S. EPA, Region II
Caribbean Field Division
Centro Europa Building
1492 Ponce de Leon Ave., Ste. 417
San Juan, PR 00907-1417
Fx: 787.729.7748

One Copy by Facsimile, Certified, and Regular Mail to:

German A. Gonzalez, Esq.
Attorney for Respondent
Luisa St., #61, Suite 1-A
San Juan, PR 00907
Fx: 787.723.3234

and

Miguel A. Lopez Rivera, Mayor
Las Piedras Municipality
c/o Essayon Design & Management Solutions, Inc.
P.O. Box 1761
Juncos, PR 00777
Fx: 787.733.0165

**Dated: May 20, 2010
Washington, D.C.**