



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
USVI DEPARTMENT OF HEALTH -)
DIVISION OF ENVIRONMENTAL) DOCKET NO. RCRA-02-2010-7111
HEALTH - ST. THOMAS &)
ST. CROIX)
)
RESPONDENT)

ORDER SCHEDULING HEARING

This proceeding arises under the authority of Section 3008 of the Solid Waste Disposal Act, as amended by various laws including the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984 (collectively referred to as "RCRA"), 42 U.S.C. § 6928. 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 ("Rules of Practice"), 40 C.F.R. §§ 22.1-22.32.

Pursuant to the Prehearing Order issued by the undersigned on January 19, 2011, the parties have filed their initial prehearing exchanges. Section 22.19(f) of the Rules of Practice, 40 C.F.R. § 22.19(f), requires parties to promptly supplement their initial prehearing exchanges when they learn that the information therein is incomplete, inaccurate, or outdated, and the additional information has not otherwise been disclosed to the opposing party. The parties retain the right to move to supplement their prehearing exchanges no later than 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) and 22.22(a), provide that documents or exhibits that have not been exchanged and witnesses whose names or testimony summaries have not been exchanged at least 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. The parties are advised that the undersigned will not entertain last minute attempts to supplement their prehearing exchanges absent extraordinary circumstances.

The parties are also advised that every motion filed in this proceeding must be served in sufficient time to permit the filing of a response by the non-moving 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), requires a party's response to a motion to be filed within 15 days of service of the motion, and Section 22.7(c), 40 C.F.R. § 22.7(c), provides for an additional five days to be added to that 15-day period when the motion is served by mail.

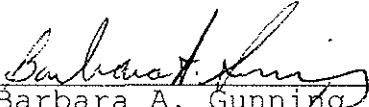
United States Environmental Protection Agency policy, found in the Rules of Practice at Section 22.18(b), 40 C.F.R. § 22.18(b), encourages settlement of a proceeding without the necessity of a formal hearing. The benefits of a negotiated settlement may far outweigh the uncertainty, time, and expense associated with a litigated proceeding. However, the parties are advised that 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 **November 18, 2011**, 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 that cannot reasonably be contested so that the hearing can be concise and focused solely on those matters that can only be resolved after a hearing.

The Hearing in this matter will be held beginning at 9:30 a.m. on Tuesday, **December 13, 2011**, in St. Thomas, United States Virgin Islands, and continue if necessary through December 16, 2011.^{1/} 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.

^{1/} At the present time, the undersigned is not available to conduct a hearing in this matter on any earlier dates due to previously scheduled hearings. However, should any of those hearings be cancelled, the parties will have the option of rescheduling the hearing in this matter for an earlier date.

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: July 6, 2011
Washington, DC

**In the Matter of USVI Department of Health - Division of Environmental Health - St. Thomas
& St. Croix, Respondent.
Docket No. RCRA-02-2010-7111**

CERTIFICATE OF SERVICE

I hereby certify that copies of this **Order Scheduling Hearing** dated July 6, 2011, issued by Barbara A. Gunning, Administrative Law Judge, in Docket No. RCRA-02-2010-7111, were sent to the following parties on this 6th day of July 2011, in the manner indicated:



Mary Angeles
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

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Copy by Pouch Mail to:

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Copy by Regular Mail to:

Pamela R. Tepper
Assistant Attorney General
VI Department of Justice
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GERS Building, 2nd Floor
St. Thomas, VI 00802

**Dated: July 6, 2011
Washington, DC**