



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

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In the Matter of: Edward and Theresa Washines, Da Stor at Lillie's Corner, Respondents. Docket No. RCRA-10-2014-0100

ORDER GRANTING COMPLAINANT'S UNOPPOSED MOTION TO AMEND COMPLAINANT'S INITIAL PREHEARING EXCHANGE

On April 30, 2014, the United States Environmental Protection Agency ("Agency"), Region 10 ("Complainant"), initiated this proceeding by filing a Complaint, Compliance Order, and Notice of Opportunity for Hearing ("Complaint") against Edward and Theresa Washines and Da Stor at Lillie's Corner ("Respondents").

Pursuant to the Prehearing Order issued on August 26, 2014, the parties subsequently filed prehearing exchanges of information. By leave of the undersigned, Complainant filed an Amended Complaint, Compliance Order, and Notice of Opportunity for Hearing ("Amended Complaint") on February 19, 2015.

1 By Order dated February 11, 2015, I directed Complainant to file and serve a final copy of the Amended Complaint on or before February 17, 2015. The record reflects that Complainant served Respondent with a hard copy of the Amended Complaint by U.S. mail on February 12, 2015, and an electronic copy of the document by email on February 17, 2015.

Complainant's Initial Prehearing Exchange ("Motion") on February 18, 2015. In its Motion, Complainant requests leave to amend its Initial Prehearing Exchange, which, Complainant explains, provides factual information and supporting documentation relevant to the assessment of a penalty in this proceeding and an explanation of the factors considered and methodology utilized in calculating the amount of the proposed penalty. Complainant further explains that because the Amended Complaint charges Respondents with additional periods of violation, "some of the penalty descriptions and proposed penalty within Complainant's Initial Prehearing Exchange . . . no longer accurately reflect the penalty descriptions and proposed penalty within the Amended Complaint." Complainant thus "requests leave to update Sections 2.B, 2.C and Exhibit C-38 within the Complainant's Initial Prehearing Exchange" in order to "amend the periods of violation and the calculation of the proposed penalty, so that those portions of Complainant's Initial Prehearing Exchange correspond to the Amended Complaint." Complainant also seeks leave "to correct a typographic error for Exhibit CX-41 in Section 1.B and the Table of Contents for Volume 2 of 2 of Complainant's Initial Prehearing Exchange, where the date for the document should be shown as April 23, 2012, not August 23, 2012." Complainant represents that Respondents do not oppose the foregoing requests.

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 set forth at 40 C.F.R. part 22 ("Rules of Practice"). Section 22.19(f) of the Rules of Practice provides that "[a] party who has made an information exchange . . . shall promptly supplement or correct the exchange when the party learns that the information exchanged . . . is incomplete, inaccurate or outdated, and the additional or corrective information has not otherwise been disclosed to the party pursuant to this section." 40 C.F.R. § 22.19(f).

Here, Complainant's Motion was sufficiently prompt, and the information contained in Complainant's Initial Prehearing Exchange is seemingly inaccurate and outdated given the allegations of additional periods of violation and amendments to the proposed penalty reflected in the Amended Complaint. Furthermore, Respondents do not oppose Complainant's request. Accordingly, Complainant's Motion is hereby **GRANTED**, and Complainant shall amend its Initial Prehearing Exchange as requested no later than **March 4, 2015**.

SO ORDERED.



Christine D. Coughlin
Administrative Law Judge

Dated: February 23, 2015
Washington, D.C.

not properly submitted to the OALJ E-Filing System until February 19, 2015. Thus, February 19 is deemed to be the official filing date of the Amended Complaint.

In the Matter of *Edward and Theresa Washines, Da Stor at Lillie's Corner*, Respondent.
Docket No. RCRA-10-2014-0100

CERTIFICATE OF SERVICE

I hereby certify that true copies of this Order Granting Complainant's Unopposed Motion to Amend Complainant's Initial Prehearing Exchange, dated February 23, 2015, issued by Administrative Law Judge Christine Coughlin, were sent to the following parties on this 23rd day of February 2015, in the manner indicated:



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Dated: February 23, 2015
Washington, DC