

4/29/96

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of)
)
 Empire Corporation,) Docket No. TSCA-V-C-075-94
 Respondent)

ORDER ON MOTION TO STRIKE PREHEARING EXCHANGE

On April 1, 1996 Complainant filed a Motion to Strike Respondent's Prehearing Exchange. Complainant has also filed a motion dated April 22, 1996 seeking an extension of time to file its reply to Respondent's prehearing exchange. Respondent has not responded to those motions as of the date of this Order.

In response to an order by the former presiding judge in this proceeding, Chief Administrative Law Judge Jon G. Lotis, Respondent apparently sent a prehearing exchange to Complainant on March 23, 1996. As alleged by Complainant, Respondent's exchange was not served on the Regional Hearing Clerk or on the Administrative Law Judge as required by Judge Lotis' order and the EPA Rules of Practice, 40 C.F.R. §§22.19, 22.05. Complainant also alleges that Respondent did not include copies of the documents it intended to introduce into evidence at the hearing, and did not adequately specify intended witnesses and the areas of their testimony.

In view of the fact that Respondent has attempted to file a prehearing exchange, I will not strike Respondent's prehearing exchange at this juncture. In addition it is not clear from the file exactly who currently represents Respondent. This order will be sent to all who have apparently appeared for Respondent thus far. In order to move this hearing along most efficiently, Respondent will be given one more opportunity to cure the deficiencies in its prehearing exchange. Respondent should be aware that failure to comply with orders of the Administrative Law Judge could render it subject to a default order pursuant to 40 C.F.R. §22.17.

Order

Respondent is ordered to file its prehearing exchange in full accord with Judge Lotis' Order of October 17, 1995 and the EPA Rules of Practice, by May 23, 1996. Complainant may file a reply exchange by June 20, 1996.

Andrew S. Pearlstein

Andrew S. Pearlstein
Administrative Law Judge

Dated: April 29, 1996
Washington, D.C.

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CERTIFICATE OF SERVICE

I certify that the foregoing Order on Motion to Strike Prehearing Exchange was served by regular mail on the addressees listed below:

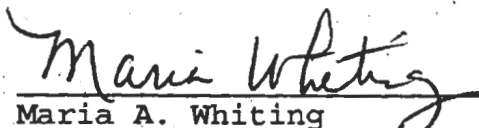
Jodi L. Swanson-Wilson
Regional Hearing Clerk
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Jane D. Woolums, Esq.
Associate Regional Counsel
U.S. EPA Region 5 (C-29A)
77 West Jackson Boulevard
Chicago, IL 60604

Fred G. Troppe, P.E.
Environmental Consulting
4442 Darrow Road
Stow, OH 44224

James W. Childs
3350 Yellow Creek Road
Akron, OH 44333-2218

Robert Andrews, President.
Empire Corporation
1946 Trapas Avenue
Akron, OH 44319



Maria A. Whiting
Legal Assistant
U.S. EPA, Mail Code 1900
Ofc. Of Adm. Law Judges
401 M Street SW
Washington, DC 20460

Dated: April 29, 1996
Washington, D.C.