



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
ANDREW H. HOLT, d/b/a) **Docket No. CWA-04-2015-4506**
A& E LIVESTOCK,)
)
Respondent.)

**ORDER GRANTING MOTION TO WITHDRAW
COMPLAINT WITHOUT PREJUDICE**

This matter was initiated on August 13, 2015 by an Administrative Complaint filed by the Director, Water Protection Division of the Environmental Protection Agency, Region 4 (Complainant). An Amended Administrative Complaint was filed on October 2, 2015. On or about September 16, 2015, an Answer was filed to the Complaint by all Respondents, through counsel. Thereafter, upon Motion filed, Respondent Eleanor F. Holt was dismissed from the action by Order dated January 14, 2016. The parties actively engaged in this Tribunal's Alternative Dispute Resolution Process. Now pending is the Complainant's Motion to Withdraw Complaint Without Prejudice filed on March 24, 2016 ("Motion"). Complainant's stated basis for the withdrawal is that, after initiating this action, and agreeing to a settlement in principle with a monetary penalty, which was never finalized, the Complainant obtained certain new information regarding Respondent's improper closure of two lagoons at his facility. In response, the parties entered into an Administrative Compliance Order on Consent ("AOC") regarding the closure of the lagoons on March 11, 2016. Based upon this, "the parties believe it is appropriate at this juncture to allow the Agency to withdraw its Complaint without prejudice." Motion at 4. Complainant indicates in its Motion that in the event Respondent fails to comply with the AOC, it will seek compliance and other relief in a civil judicial forum. Motion at 5. The Motion further states that the Complainant has conferred with Respondent, who has reviewed the Motion and has no opposition thereto, and that "the parties stipulate that Respondent will not suffer plain legal prejudice as a result of Complainant's withdrawal of the Complaint." Motion at 6.

Rule 22.14(d) of the Consolidated Rules of Practice provides as follows:

(d) Withdrawal of the complaint. . . . after the filing of an answer, the complainant may withdraw the complaint, or any part thereof, without prejudice only upon motion granted by the Presiding Officer.

40 C.F.R. § 22.14(d).

For the reasons set forth in Complainant's unopposed Motion, the Motion to Withdraw Complaint Without Prejudice is hereby **GRANTED**, and Amended Administrative Complaint filed in this action is deemed withdrawn, *without prejudice*. Each party shall bear their own costs.



Susan L. Biro
Chief Administrative Law Judge

Dated: March 25, 2016
Washington, D.C.

In the Matter of Andrew H. Holt, d/b.a A & E Livestock Respondent
Docket No. CWA-04-2015-4506

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Motion To Withdraw Complaint Without Prejudice**, issued by Chief Administrative Law Judge Susan L. Biro dated March 25, 2016, was served this day in the following manner to the addressees listed below:

Danielle L. Pope
Paralegal

Original And One Copy To:

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Dated: March 25, 2016
Washington, DC