



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

**In the Matter of:** )  
 )  
**Michael Zahner, and** ) **Docket No. CWA-07-2022-0141**  
**Zahner Management Company, LLC,** )  
 )  
**Respondents.** )

**ORDER ON COMPLAINANT’S MOTION FOR STAY OR EXTENSION OF TIME TO  
FILE PREHEARING EXCHANGE**

This proceeding was initiated on September 28, 2022, with the filing of a Complaint by the Complainant, the Director of the Enforcement and Compliance Assurance Division of Region 7 of the U.S. Environmental Protection Agency (“Agency”) against Respondents Michael Zahner and Zahner Management Company, LLC, pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). Respondents subsequently filed an Answer to the Complaint, in which they denied the alleged violations and requested a hearing. After I was designated to preside over the proceeding, I issued a Prehearing Order setting deadlines for a number of prehearing procedures, including the filing of a Status Report by Complainant, a fully-executed Consent Agreement and Final Order (“CAFO”) if the parties achieved settlement of this matter, and a prehearing exchange of information by each party if settlement was not achieved in the meantime.

On February 24, 2023, Complainant filed a timely Status Report indicating settlement discussions had been unsuccessful as of that date. On March 16, 2023, Complainant filed a Motion for Stay or Extension of Time to File Complainant’s Prehearing Exchange (“Motion”). Therein, Complainant represents that the parties have reached an agreement in principle to resolve this matter. Complainant therefore requests a two week stay or extension of its March 17, 2023, prehearing exchange deadline to give the parties time to finalize and file a fully-executed CAFO with this Tribunal. Complainant also represents that Respondents do not object to the requested extension.

This matter 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”) set forth at 40 C.F.R. Part 22. The Rules of Practice provide that I “may grant an extension of time for filing any document: upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.” 40 C.F.R. § 22.7(b).

Here, Complainant's Motion was timely and shows good cause. As reflected in the Rules of Practice, Agency policy supports settlement of a proceeding without the necessity of a formal hearing. 40 C.F.R. § 22.18(b)(1). The interests of the parties and judicial economy are well served by the parties resolving this matter informally and expeditiously. Accordingly, the Motion is hereby **GRANTED**. A fully-executed CAFO shall be filed with the Regional Hearing Clerk on or before **March 31, 2023**, with a courtesy copy filed with the Headquarters Hearing Clerk. If the parties are unable to achieve settlement by that date, they shall file their prehearing exchanges pursuant to the following schedule:

<b>March 31, 2023</b>	Complainant's Initial Prehearing Exchange
<b>April 21, 2023</b>	Respondents' Prehearing Exchange(s)
<b>May 5, 2023</b>	Complainant's Rebuttal Prehearing Exchange

**SO ORDERED.**

  
\_\_\_\_\_  
Susan L. Biro  
Chief Administrative Law Judge

Dated: March 17, 2023  
Washington, D.C.

In the Matter of *Michael Zahner and Zahner Management Company, LLC*, Respondents.  
Docket No. CWA-07-2022-0141

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order on Complainant's Motion for Stay or Extension of Time to File Prehearing Exchange**, dated March 17, 2023, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



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Mary Angeles  
Paralegal Specialist

Copy by OALJ E-Filing System to:  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
[https://yosemite.epa.gov/OA/EAB/EAB-ALJ\\_Upload.nsf](https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf)

Copy by Electronic Mail to:  
Shane McCoin  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Boulevard  
Lenexa, KS 66219  
Email: [mccoin.shane@epa.gov](mailto:mccoin.shane@epa.gov)  
*Counsel for Complainant*

William Ford  
Shanna McCormack  
Lathrop GPM LLP  
2345 Grand Boulevard, Suite 2200  
Kansas City, MO 64108-2618  
Email: [bill.ford@lathropgpm.com](mailto:bill.ford@lathropgpm.com)  
Email: [shanna.mccormack@lathropgpm.com](mailto:shanna.mccormack@lathropgpm.com)  
*Counsel for Respondents*

Dated: March 17, 2023  
Washington, D.C.