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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

IN THE MATTER OF)	
)	
)	DOCKET NO. UIC-09-2022-0058
)	
NSHE HI Narcissus, LLC)	COMPLAINANT’S MOTIONS FOR
)	POSTPONEMENT OF HEARING
)	
Respondent.)	
_____)	

I. INTRODUCTION

On August 5, 2024, the Presiding Officer issued a Third Prehearing Order in the above referenced matter, setting the prehearing conference in this matter for September 10, 2024 and the hearing on this matter for November 6-7, 2024. On August 21, 2024, following the withdrawal of Respondent’s counsel, the Presiding Officer issued a Fourth Prehearing Order moving the prehearing conference to September 17, 2024, but moving the hearing up to

October 8-9, 2024. Complainant respectfully requests that the Presiding Officer issue an Order reinstating the November 6-7, 2024 date for the hearing in this matter.

II. MOTION FOR AN EXTENSION FOR POSTPONEMENT OF HEARING

Under 40 C.F.R. § 22.21(c), the Presiding Officer may grant a request to postpone the hearing “upon motion and for good cause shown.” Complainant respectfully moves the Presiding Officer to reinstate the November 6-7, 2024 hearing date because Complainant’s counsel now has a scheduling conflict on October 8-10, and because moving the hearing forward by nearly a month would be unduly burdensome for the parties’ witnesses.

Complainant contacted Mr. Duke Pontin, Respondent’s managing member who intends to represent Respondent in this matter, who has stated he opposes the motion to postpone the hearing, though Respondent had not previously objected to the November dates and Mr. Pontin did not provide a reason for his opposition.

A. Scheduling Conflicts

Complainant’s counsel are both staffed on a separate enforcement matter pending in federal court. Mediation in that matter is scheduled for October 8-10, 2024. As a result, counsel will be unavailable for a hearing in this matter on October 8-9, 2024, and will be unable to adequately prepare for a hearing in early October, as they will be busy prior to that time preparing for mediation in federal court. Likewise, at least one of Complainant’s witnesses now also has a scheduling conflict on October 8, and will be unavailable for the hearing that day.

B. Burden to Witnesses

Complainant intends to call several witnesses at the hearing. These witnesses have already arranged their schedules to accommodate the November 6-7, 2024 hearing date that

was set in the Third Prehearing Order. Indeed, these witnesses have already had to rearrange their schedules three times before to accommodate the hearing, as the hearing date was originally set for April 2, 2024, and then moved to May 28, 2024, and then September 10-11, 2024 to accommodate the mediation. The hearing was then pushed back a third time to October 8-9, 2024, to give the parties additional time to mediate, and then a fourth time to November 6-7, 2024. Requiring these witnesses to rearrange their schedules a fifth time—this time to move the hearing forward by nearly a month—would be unduly burdensome.

III. CONCLUSION

For the reasons laid out above, Complainant respectfully moves the Presiding Officer to postpone the hearing to November 6-7, 2024, as stated in the Third Prehearing Order.

Respectfully submitted,

Erin Brewer
Assistant Regional Counsel
Office of Regional Counsel, EPA Region 9

Certificate of Service

The undersigned certifies that on the date indicated below this Motion to Postpone was served upon Respondent's representative and managing member, who has consented in writing to electronic service pursuant to 40 C.F.R. § 22.5(b)(2).

One copy via electronic mail to:

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Dated: September 3, 2024

Erin Brewer
Assistant Regional Counsel
Office of Regional Counsel, EPA Region 9