

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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In the Matter of)
)
Gilbert Agee, individually,) Docket No. CWA-10-2002-0070
d/b/a Agee Construction Co.)
)
Respondent)

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REPORT RECOMMENDING TERMINATION
OF ALTERNATIVE DISPUTE RESOLUTION PROCESS
AND ASSIGNMENT OF A JUDGE FOR LITIGATION

The Report of January 6, 2003, approved by the Chief Administrative Law Judge January 7, 2003, provided that this alternative dispute resolution (ADR) process would terminate March 6, 2003. The recommendation of this Report is that the ADR process be terminated as scheduled, and that the case be assigned to a Judge for resolution through litigation.

The reason for this recommendation is that the parties, after four months of the ADR process, have not reached a settlement. Accordingly, the case should now be assigned to a Judge to preside over a litigated resolution.

The parties did, however, successfully use the ADR process to negotiate the framework for a possible settlement. Before the end of this month of March 2003 their continuing negotiations should determine whether they actually reach a settlement within this framework. It is consequently suggested that any preparation for a litigated resolution allow the parties time to pursue their negotiations during this month. The undersigned will submit a further Report by March 31, 2003.

The undersigned further expresses his appreciation to the parties for the courtesy and candor with which they have participated in the ADR process.


Thomas W. Hoya
Administrative Law Judge

Dated: March 6, 2003

Approved: 
Susan L. Biro
Chief Administrative Law Judge

Dated: 3/3/03

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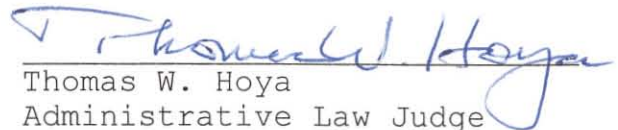
REPORT OF SETTLEMENT IN PRINCIPLE

The Report of March 6, 2003 recommended terminating the alternative dispute resolution (ADR) process because the parties had not reached a settlement. The Report added that the parties might reach a settlement during the remainder of the month of March 2003, and that a further Report would be submitted by March 31, 2003.

The instant Report constitutes that further Report. In a telephone conference with the undersigned March 27, 2003 Complainant and Respondent reported that they have now reached a settlement in principle.

Thus the parties successfully used the ADR process to develop a settlement. Since the ADR process itself has ended, to provide that the case remains on the docket of one of the Office's Judges until the consent agreement is formally concluded, it is recommended that the case continue to be assigned to one of these Judges.

The parties are commended for their success in negotiating their settlement in principle; they successfully worked their way through some challenging problems to reach their settlement. As a final point, the undersigned again expresses his appreciation to the parties for the courtesy and candor with which they participated in the ADR process.


Thomas W. Hoya
Administrative Law Judge

Dated: March 31, 2003

Approved: 
Susan L. Biro
Chief Administrative Law Judge

Dated: 3/31/03

In the matter of Gilbert Agee, individually, d/b/a Agee Construction Co.
Respondent_Docket No. CWA-10-2002-0070

CERTIFICATE OF SERVICE

I certify that the foregoing **REPORT RECOMMENDING TERMINATION OF ALTERNATIVE DISPUTE RESOLUTION PROCESS AND ASSIGNMENT OF A JUDGE FOR LITIGATION** dated March 31, 2003 was sent to the addressees listed below:

Original copy by regular mail to:

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Regional Hearing Clerk
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Seattle, WA 98101

Copy by regular mail to:

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Knolyn R. Jones
Staff Assistant

Dated: March 31, 2003
Washington, DC