## U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 8

DOCKET NO.: CWA-08-2011-0040

2012 APR 26 AM 10: 41

	)	ORDER ON RESPONDENT'S MOTION TO
	)	RESCHEDULE SECOND PREHEARING
CITY OF DUPREE, SOUTH DAKOTA	)	CONFERENCE AND FOR EXTENSION OR
DUPREE, SOUTH DAKOTA	)	STAY OF TIME FOR RESPONDENT TO FILE
NPDES Permit NO. SDG589110	)	PREHEARING INFORMATION EXCHANGE
	)	
RESPONDENT.	)	
	)	

By Motion filed, April 24, 2012, Respondent through its representative, Attorney Eric Bogue, has requested a MOTION TO RESCHEDULE SECOND PREHEARING CONFERENCE AND FOR EXTENSION OR STAY OF TIME FOR RESPONDENT TO FILE PREHEARING INFORMATION EXCHANGE ("Motion"). By affidavit, Respondent explained that personnel with relevant information to this matter are no longer employed by the City of Dupree. Respondent has hired a consultant to assist with retrieving documents necessary for Respondent's prehearing exchange. The project engineer is not available to assist Respondent until after May 14, 2012. The EPA does not oppose the extension request to file Prehearing Information Exchange. For good cause shown, this court GRANTS IN PART AND DENIES IN PART Respondent's Motion. Respondent is allowed an extra month to file its Prehearing Information Exchange.

Complainant opposes a stay to the April 26, 2012 Second Prehearing Conference Call.

On April 23, 2012, Complainant filed a MOTION FOR SHOW CAUSE requesting this court to finalize a place and time for the conference call. There is no harm to either party in moving forward with the Second Prehearing Conference Call. The call will afford both parties and the court an opportunity to discuss the status of this matter. Therefore, Complainant's MOTION FOR SHOW CAUSE as it relates to the scheduling of the call is GRANTED. The Second Prehearing Conference Call shall occur on April 26, 2012 at 2:00 pm MST in the Judge's Office with Respondent present via telephone.

Respondent's motion does not ask for a specific date by which it will file its Prehearing Information Exchange. Respondent's representative, Mr. Bogue, also does not explain why this motion was not filed in a timely manner. Mr. Bogue attended the January 12, 2012

teleconference where we discussed the Prehearing Information Exchange. He also received the January 12, 2012 Order to File Prehearing Information Exchange. This court will allow one month for Respondent to file its Prehearing Exchange. There will be no further extensions of time granted without extreme circumstances given.

Prehearing exchanges shall be submitted according to the following schedule:

Respondent's Prehearing Exchange is due on or before June 11, 2012.

Complainant's Rebuttal Prehearing Exchange is due on or before June 25, 2012.

Please refer to the January 12, 2012 Order to File Prehearing Information Exchange for all other relevant information related to filing prehearing exchange in this matter.

Accordingly, Respondent's MOTION TO RESCHEDULE SECOND PREHEARING

CONFERENCE AND FOR EXTENSION OR STAY OF TIME FOR RESPONDENT TO FILE PREHEARING

INFORMATION EXCHANGE is hereby granted in part and denied in part and Complainant's

MOTION FOR SHOW CAUSE is granted in part pursuant to Section 22.16 of the Consolidated

Rules of Practice. The April 26, 2012 Prehearing Conference will proceed as stated above.

SO ORDERED THIS 26 of AM , 2012

Elyana R. Sutin

Regional Judicial Officer

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached ORDER GRANTING MOTION TO RESCHEDULE SECOND PREHEARING CONFERENCE AND FOR EXTENSION OR STAY OF TIME FOR RESPONDENT TO FILE PREHEARING INFORMATION EXCHANGE, in the matter of CITY OF DUPREE, SOUTH DAKOTA DOCKET NO.: CWA-08-2011-0040 was filed with the Regional Hearing Clerk on April 24, 2012.

Further, the undersigned certifies that a true and correct copy of the documents were delivered Amy Swanson, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on April 26, 2012, and emailed to:

Bogue & Bogue, LLP
Butler Insurance Building, Suite 2
104 West II' Street/Po O. Box 250
Faith, SD 57626-0250
boguclaw@faithsd.com

and emailed to:

Honorable Elyana R. Sutin Regional Judicial Officer U. S. Environmental Protection Agency, Region 8 1595 Wynkoop Street (8RC) Denver, CO 80202

April 26, 2012

Tina Artemis

Paralegal/Regional Hearing Clerk