

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY 2008 JUN 11 PM 2:26

BEFORE THE ADMINISTRATOR


FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
THE THREE AFFILIATED TRIBES) Docket No. RCRA-08-2008-0002
and YOLANDA BEARS TAIL, individually,)
)
Respondents)

ORDER ON COMPLAINANT'S MOTION FOR EXTENSION OF TIME

A Order was issued in this matter on June 2, 2008 directing Complainant to show good cause for its failure to file its Prehearing Exchange by the established deadline of May 16, 2008. On June 6, 2008, Complainant filed a pleading entitled "Response to Order to Show Cause and Motion for Extension of Time to File Prehearing Exchange." In the Response portion thereof, Complainant acknowledges its error and takes responsibility for its failures proffering as good cause therefor the fact that this action is one of three related actions which it is attempting to simultaneously resolve and alleges in regard to such settlement certain obstacles and complications have arisen as to which guidance was required delaying execution of the settlement agreement. This nominal proffer of good cause is hesitantly accepted. Complainant's Motion for Extension portion of the pleading requests that the current deadlines established in the Prehearing Order be vacated and that it be granted an additional 30 days to file its Prehearing Exchange. As grounds therefor, Complainant indicates that it intends to move to consolidate this action with two other related actions in anticipation of filing a single Consent Agreement and Final Order in regard to all three matters. The Motion alleges that Respondent will not be prejudiced by the delay, but does not indicate that Respondent was advised of its intent to seek an extension prior to the filing of the Motion and what Respondent indicated what its position in regard thereto, as required by the Prehearing Order.

Nevertheless, for good cause shown, the Motion is hereby **GRANTED**. Accordingly, ***both parties shall simultaneously file their Prehearing Exchanges in this matter on or before July 9, 2008 if the fully executed Consent Agreement and Consent Order (CAFO) has not yet filed by that date.***



Susan L. Biro
Chief Administrative Law Judge

Date: June 9, 2008
Washington, D.C.

CERTIFICATE OF SERVICE

I certify that the foregoing **Order on Complainant's Motion for Extension of Time**, dated June 9, 2008, was sent this day in the following manner to the addressees listed below:

Original and copy by pouch mail to:

Tina Artemis
Regional Hearing Clerk
U.S. EPA
1595 Wynkoop Street
Denver, CO 80202

Copy by regular mail to:

Attorney for Complainant:

Amy Swanson., Esq.
Assistant Regional Counsel
U.S. EPA
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Respondent:

Damon K. Williams, Esq.
Tribal Administrative Building
404 Frontage Rd.
New Town, ND 58763



Knolyn R. Jones
Legal Staff Assistant

Dated: June 9, 2008
Washington, DC