



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Nelcon, Inc.,) Docket No. CWA-08-2012-0025
)
Respondent.)

ORDER TERMINATING PROCEEDINGS
BEFORE CHIEF ADMINISTRATIVE LAW JUDGE

This matter was initiated by an Administrative Complaint filed over a year ago on August 29, 2012. Prior to the filing of the Answer, the Respondent requested and was granted three extension of time by the Regional Judicial Officer. After the Answer was filed, the parties agreed to participate in this Tribunal's Alternative Dispute Resolution process, which was initiated on January 3, 2013 and concluded on May 6, 2013, without a settlement being reached. As such, this case was designated to the undersigned for hearing and a Prehearing Order was promptly issued on May 17, 2013. Thereafter, the parties requested and were granted a series extensions of time to file their prehearing exchanges based upon representations starting in June 2013 that they had "reached a settlement in principle." In July 2013, the Complaint was amended in order to allegedly facilitate settlement.

The last Order granting the parties' request for an extension of time was issued on August 22, 2013. That Order required the Complainant to file its Prehearing Exchange by September 13, 2013. The Complainant failed to comply with that deadline and did not request an extension of time prior to the deadline expiring. Rather, on September 20, 2013, the undersigned received an "Unopposed Motion for Extension of Time and Status Report" ("Motion"), filed by the Complainant. In that Motion, Complainant acknowledges the untimely filing attributing it to the recent "unprecedented rain event" in Colorado and states further that "as of Monday September 16, 2013, the parties are in full agreement on the consent agreement and are working to obtain signatures so that it may be filed with the Regional Judicial Officer." The parties request yet again additional time to file their Prehearing exchanges.

There is no further need for the undersigned to preside over this matter. Cases are referred to the Office of Administrative Law Judges solely for the purpose of providing respondents with a right to a hearing before an Administrative Law Judge, consistent with the applicable statutes and the Administrative Procedure Act. The parties are deemed to have waived the right to hearing, as they have reported that they have reached agreement in principal for the settlement of this matter.

Accordingly, this proceeding before the undersigned is hereby deemed **TERMINATED**
AND CLOSED as of this date.

Susan L. Biro
Chief Administrative Law Judge

Dated: September 23, 2013
Washington, D.C.