



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

In the Matter of:)
Evergreen Development, Inc., and) Docket No. CWA-07-2022-0134
Mark Schmidt,)
Respondents.)

ORDER ON RESPONDENTS' THIRD REQUEST FOR CONTINUANCE

On May 19, 2023, Respondents Evergreen Development, Inc., and Mark Schmidt filed a Third Request for Continuance ("Third Request") to postpone the filing of their Prehearing Exchange. Respondents ask for a three-week continuance "so that it can determine if settlement is a viable alternative to litigating this matter." 3d Req. at 2. Respondents note that Complainant's counsel has consented to the Request in order to obtain some information which may facilitate settlement. 3d Req. at 2.

In support of the Request, Respondents convey that they have provided Complainant with additional financial information (including tax returns, real estate closing statements, and a balance statement) since April 24, 2023, the date of the Order granting the last continuance. 3d Req. at 1. Now, the parties seek "additional information from the Respondent's banker about whether additional financing is a possibility and from the realtor about the likely timeline for lot sales." 3d Req. at 1.

According to the Consolidated Rules of Practice governing this matter, "the Presiding Officer may grant an extension of time for filing any document: upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative." 40 C.F.R. § 22.7(b). Because the parties continue to work together to resolve this matter, I find that there is good cause to allow a three-week extension of the deadlines, and that no prejudice will result. The Third Request is GRANTED.

The remaining deadlines for filing prehearing exchange documents are as follows:

June 9, 2023 Respondents' Prehearing Exchange(s)

June 23, 2023 Complainant's Rebuttal Prehearing Exchange

Any other deadlines set by the Prehearing Order, such as that for filing a joint motion for the appointment of a neutral, are extended accordingly.

SO ORDERED.

Christine Donelian Coughlin

Christine Donelian Coughlin
Administrative Law Judge

Dated: May 24, 2023
Washington, D.C.

In the Matter of *Evergreen Development, Inc., and Mark Schmidt*, Respondents.
Docket No. CWA-07-2022-0134

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Respondents' Third Request for Continuance**, dated May 24, 2023, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.



Mary Angeles
Paralegal Specialist

Copy by OALJ E-Filing System to:
Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Suite M-1200
1300 Pennsylvania Ave. NW
Washington, DC 20004
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

Copy by Electronic Mail to:
Shane McCoin
Sam Bennett
U.S. Environmental Protection Agency, Region 7
11201 Renner Blvd.
Lenexa, KS 66219
Email: mccoin.shane@epa.gov
Email: bennett.sam@epa.gov
For Complainant

Copy by Electronic Mail to:
Jovan W. Lausterer
Bromm, Lindahl, Freeman-Caddy & Lausterer
551 North Linden St.
P.O. Box 277
Wahoo, NE 68066
Email: jlaus@wahoolaw.com
For Respondents

Dated: May 24, 2023
Washington, D.C.