

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219  
BEFORE THE ADMINISTRATOR

IN THE MATTER OF )  
)  
ADAMAS CONSTRUCTION AND ) COMPLAINANT’S MOTION FOR  
DEVELOPMENT SERVICES, PLLC ) EXTENSION OF TIME TO FILE  
) REBUTTAL PREHEARING  
) EXCHANGE  
)  
AND )  
)  
NATHAN PIERCE, )  
)  
Respondents ) Docket No. CWA-07-2019-0262  
)  
Proceedings under Section 309(g) of the )  
Clean Water Act, 33 U.S.C. § 1319(g) )

COMPLAINANT’S MOTION FOR EXTENSION OF TIME TO FILE REBUTTAL  
PREHEARING EXCHANGE

COMES NOW, the United States Environmental Protection Agency (“EPA” or “Complainant”), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1 to 22.45 and submits this Motion for Extension of Time to File Rebuttal Prehearing Exchange.

1. Complainant requests an extension of time to February 28, 2020, to file its Rebuttal Prehearing Exchange. The January 2, 2020, Order requires Complainant to submit its Rebuttal Prehearing Exchange by February 7, 2020.

2. Respondents' Prehearing Exchange was due on January 24, 2020. Respondent did file their Prehearing Exchange with the Court; however, Respondents failed to serve Complainant by either regular mail or electronic mail, despite having included a certificate of service with the Prehearing Exchange signed by Respondents' counsel stating that such service was completed.

3. After determining that certain documents filed by Complainant were not included in the Administrative Law Judges' E-Docket Database, Complainant called the Hearing Clerk on January 30, 2020, to ask questions regarding the docket for this case. On February 4, 2020, Complainant was informed by the Hearing Clerk that Respondents filed their Prehearing Exchange. The document was posted on the Administrative Law Judges' E-Docket Database on February 4, 2020. On February 4, 2020, Complainant accessed the narrative portion of Respondents' Prehearing Exchange via the database, but is unable to view the exhibits.

4. Complainant immediately emailed Respondents and Respondents' counsel and requested that service be completed and that the exhibits referenced in the Prehearing Exchange be sent immediately. Exhibit 1.

5. For the reasons stated above, Complainant requests an extension of time to file its Rebuttal Prehearing Exchange to February 28, 2020. Complainant notes that until it receives all the exhibits filed as part of Respondents' Prehearing Exchange, it will be unable to fully evaluate the Respondents' claims. Complainant reserves its right to ask for additional extensions of time if Respondents' do not timely correct their error.

6. Complainant conferred with Respondents and Respondents' counsel, and they do not object to an extension of time. Exhibit 1.

7. A hearing date has not been set for this matter. This extension of time will not prejudice either party.

RESPECTFULLY SUBMITTED this 5<sup>th</sup> day of February 2020.

/s Sara Hertz Wu

Sara Hertz Wu, Senior Counsel

Elizabeth Huston, Senior Counsel

Office of Regional Counsel

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CERTIFICATE OF SERVICE

I certify that the foregoing Complainant's Motion for Extension of Time to File a Rebuttal Prehearing Exchange, Docket No. CWA-07-2019-0262, has been submitted electronically using the OALJ E-Filing System.

A copy was sent by email and postal mail to:

Attorney for Respondents Adamas Construction and Development Services PLLC and Nathan Pierce:

Chris J. Gallus  
Attorney at Law  
1423 Otter Road  
Helena, Montana 59602  
[chrisjgalluslaw@gmail.com](mailto:chrisjgalluslaw@gmail.com)

A copy was sent by email to Nathan Pierce at [adamas.mt.406@gmail.com](mailto:adamas.mt.406@gmail.com).

Date: 2/5/2020

/s Sara Hertz Wu \_\_\_\_\_

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