

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

BEFORE THE ADMINISTRATOR

In the Matter of)	
)	
Focus Learning Academy Charter School,)	Docket No. TSCA-06-2005-0893
)	
Respondent)	

**Order Granting Extension of Time to File the Prehearing Exchange
with proper practice advice for counsel**

On June 13, 2006, this Court received a copy of Complainant and Respondent’s Joint Motion Requesting Extension of Time to File Either the Prehearing Exchanges or a Consent Agreement and Final Order (“Joint Motion”). This Court’s Prehearing Order, dated April 12, 2006, set June 13, 2006 as the date for the parties to file their initial prehearing exchanges and the Complainant and Respondent noted this in their Joint Motion, acknowledging that, “[b]oth parties in this proceeding are required to file their respective prehearing exchanges *today*.” Joint Motion at § 1, filed June 13, 2006. (emphasis added).

This Court points out that it is very poor practice for the parties to wait until *the day the prehearing exchange is due* to file a motion seeking an extension from the compliance due date. In this instance the Joint Motion was faxed at 4:55 p.m. Therefore, if the extension were not granted, the parties would have been in default of the Order, as it would not have been possible to file the prehearing exchanges on time. It is a mystery why counsel operate in a less than professional manner. The parties must have known that negotiations were proceeding and that there was a basis to seek an extension from the due date for the prehearing exchanges at a time before the date the exchanges were due. The filing of such a motion, with sufficient time for the Court to review and consider the request, is not burdensome. The time to draft such a motion is minimal. Typically, such extension requests, if justified, are granted.

Upon consideration and with the hope that EPA counsel everywhere will pay attention to

dates for compliance with court orders, the Court grants the Joint Motion and extends the filing due date for the prehearing exchanges or for the submission of a fully executed Consent Agreement, to **June 28, 2006**, which is the extension period sought by the parties.

So ordered.

William B. Moran
United States Administrative Law Judge

Dated: June 14, 2006
Washington, DC