



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
Dave Erlanson, Sr.) **Docket No. CWA-10-2016-0109**
)
Respondent.)

**ORDER GRANTING RESPONDENT’S MOTION FOR LEAVE TO FILE
REVISED OR SUPPLEMENTAL PREHEARING EXCHANGE**

On February 24, 2017, I issued a Second Prehearing Order in this matter, establishing certain prehearing filing deadlines. The Second Prehearing Order set the filing deadline for Respondent’s Prehearing Exchange as April 28, 2017, and the filing deadline for Complainant’s Rebuttal Prehearing Exchange as May 12, 2017. Upon motion from Respondent, I extended the filing deadline for Respondent’s Prehearing Exchange to May 8, 2017, and the filing deadline for Complainant’s Rebuttal Prehearing Exchange to May 22, 2017, by order issued April 27, 2017.

On May 8, 2017, Respondent filed his Prehearing Exchange, along with a Motion for Leave to File a Revised or Supplemental Prehearing Exchange (“Motion for Leave”). In both Respondent’s Prehearing Exchange and Motion for Leave, Respondent’s counsel states that he had “unforeseen difficulty in obtaining documents and contacting potential witnesses needed to adequately and completely prepare Respondent’s Initial Exchange.” As a result, Respondent requests leave to file a revised or supplemental prehearing exchange. Respondent’s counsel represents that he contacted Complainant with regard to this motion, and that Complainant does not object to the requested leave, provided that the revised or supplemental prehearing exchange is filed prior to the filing deadline for Complainant’s Rebuttal Prehearing Exchange.

The rules that govern this proceeding, set forth at 40 C.F.R. Part 22 (“Rules of Practice”), require prompt supplementation of a prehearing exchange “when the party learns that the information exchanged . . . is incomplete, inaccurate or outdated, and the additional or corrective information has not otherwise been disclosed to the other party.” 40 C.F.R. § 22.19(f). The Rules of Practice further authorize the Presiding Officer to grant an extension of time for filing of any document for good cause shown upon motion, after consideration of prejudice to the other parties. 40 C.F.R. § 22.7(b). As the Respondent’s Prehearing Exchange and Motion for Leave reflect that the Prehearing Exchange filed by Respondent on May 8, 2017, is incomplete, supplementation is warranted. Further, as the Motion for Leave shows good cause and is agreed upon by the parties, granting it is appropriate. Accordingly, the Motion for Leave is hereby **GRANTED**. Respondent shall file a revised or supplemental prehearing exchange **on or before May 22, 2017**, and Complainant shall file its Rebuttal Prehearing Exchange **on or before June 5, 2017**.

SO ORDERED.



Christine Donelian Coughlin
Administrative Law Judge

Date: May 9, 2017
Washington, D.C.

In the Matter of *Dave Erlanson, Sr.*, Respondent
Docket No. CWA-10-2016-0109

CERTIFICATE OF SERVICE

I certify that the foregoing Order Granting Respondent's Motion for Leave to File Revised or Supplemental Prehearing Exchange, dated and issued by Administrative Law Judge Christine Donelian Coughlin on May 9, 2017, was sent this day to the following parties in the manner indicated below.



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Dated: May 9, 2017
Washington, D.C.