



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

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In the Matter of Polo Development, Inc., AIM Georgia, LLC, and Joseph Zdrilich, Respondents. Docket No. CWA-05-2013-0003 Dated: October 31, 2013

Order on Motion to Withdraw as Trial Counsel for Respondents and on Request for Extension of Time

After a Prehearing Order was issued in this proceeding, Complainant filed a Prehearing Exchange. Thereafter, the parties reached a settlement in principle of this matter, and Respondent was granted an extension of time to file its Prehearing Exchange. The parties requested an additional sixty days to complete the settlement on August 7, 2013, on grounds that the Respondent had signed the Consent Agreement and Final Order ("CAFO") but additional time was needed for public notice and comment before final signature by the Regional Administrator. Pursuant to the request, Respondent was granted an extension until October 25, 2013 to file its prehearing exchange. On October 21, 2013, a "Motion to Withdraw as Trial Counsel for Respondents for Respondents Polo Development, Inc., AIM Georgia, LLC and Joe Zdrilich" ("Motion") was filed by Respondents' counsel on grounds that an irreconcilable conflict and differences recently had arisen between counsel and Respondents. The Motion states that Respondents were informed on October 2, 2013 that counsel was withdrawing as their legal representative and that he offered to assist them to retain new counsel. In the Motion, counsel requests that Respondents be granted additional time for new counsel to appear so that deadlines can be met.

On October 24, 2013, Complainant filed a Status Report and Response to Motion to Withdraw, stating that Complainant does not object to the motion to withdraw, and requests that a date be set for Respondents to either identify substitute counsel or state that it will proceed pro se. Complainant states further that in September 2013, it informed Respondents that it received information that would prevent it from finalizing the proposed settlement. Complainant notes that, given withdrawal of counsel and no substitute counsel, it is not confident that settlement can be completed in the near future.

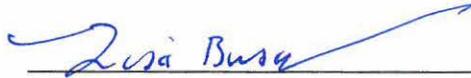
The Rules of Practice that govern this proceeding, 40 C.F.R. Part 22, provide that the

presiding officer may grant an extension of time for filing any document "upon timely motion . . . , for good cause shown, and after consideration of prejudice to other parties." 40 C.F.R. § 22.7(b).

Given that significant time has passed since the Complaint was filed in January 2013, and given that the proposed settlement cannot be finalized, at this point Respondents should immediately prepare for a hearing by filing a prehearing exchange. Although Respondents' deadline to file its Prehearing Exchange expired on October 25, 2013, the request for additional time, which was filed prior to that due date, is granted in the circumstances of this case. It is expected that, by the time of the due date set herein for their prehearing exchange(s), Respondents will have retained new counsel or have decided to proceed unrepresented by counsel.

Accordingly, **IT IS ORDERED THAT:**

1. For good cause, the Motion to Withdraw as Trial Counsel is **GRANTED**.
2. For good cause, the Respondents are hereby **GRANTED** an extension of time to file a prehearing exchange. Each Respondent, or Respondents collectively, shall file a prehearing exchange as directed in the March 22, 2013 Prehearing Order, **on or before December 6, 2013**.
3. Each Respondent, or Respondents collectively, shall include a Notice of Appearance of Counsel, or a statement that they intend to proceed unrepresented by counsel, with their prehearing exchange, or with their respective prehearing exchanges, **on or before December 6, 2013**.
4. Complainant shall file any Rebuttal Prehearing Exchange on or before **December 20, 2013**.
5. The parties shall continue efforts in good faith to settle this matter.

  
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M. Lisa Buschmann  
Administrative Law Judge

In the Matter of Polo Development, Inc., AIM Georgia, LLC and Joseph Zdrilich, Respondents  
Docket No. CWA-05-2013-0003

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Withdraw as Trial Counsel for Respondents and on Request for Extension of Time**, dated October 31, 2013, was sent this day in the following manner to the addressees listed below:

  
\_\_\_\_\_  
Knolyn R. Jones  
Staff Assistant

Dated: October 31, 2013

Original And One Copy To:

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