

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of	§	DOCKET NO. CWA-06-2022-1772
	§	
Double M Properties	§	Proceeding to Assess a Class II
	§	Civil Penalty under Section 309(g)
	§	of the Clean Water Act
Respondent	§	
	§	
NPDES ID. No. NMR1002AG	§	

**COMPLAINANT’S MOTION FOR EXTENSION OF PREHEARING ORDER
DEADLINES**

COMES NOW COMPLAINANT, the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (EPA), by and through her attorney, who provides the following motion regarding the above-captioned proceeding.

1. The administrative complaint was filed with the Regional Hearing Clerk on July 7, 2022, with Respondent filing an answer on August 9, 2022. A Prehearing Order was issued on September 16, 2022, specifying deadlines for the parties. Complainant has submitted two previous Motions for Extension of Prehearing Order Deadlines, the last motion was filed on November 3, 2022.
2. The Parties have actively been exchanging language for a proposed CAFO, which has required consultation with the principles. The last exchange of language occurred on December 13, 2022. Despite efforts of counsels to finalize the language of the CAFO, the CAFO has not been finalized; however, it appears only a few sentences are needed for resolution.
3. The negotiation process has been impacted by the holiday season. Counsel for Complainant will be on vacation for the last two weeks in December and will be out of the country for most of this time-period. As a result, the CAFO language will not be

ready for internal EPA review this month. Once counsels agree on the CAFO language, the principals will need to review and approve the language. For Complainant, once counsels agree regarding the CAFO language, the CAFO will go through the concurrence process in which several managers review the language, and the Division Director consents to the CAFO. Once the Division Director approves the CAFO, the CAFO is sent you Respondent for signature. Once signed by Respondent, the CAFO is submitted to the Division Director for her signature. Because of the holidays, counsels will not be able to finalize the CAFO language, so the review process is delayed. As a result, additional time is needed.

4. Therefore, Complainant hereby requests an extension of 45 days regarding each of the Prehearing Exchange deadlines specified in the Prehearing Order, dated November 7, 2022. It is anticipated by Complainant that the CAFO will be filed prior to the requested extension date.
5. The extension request is not sought for delay but rather to facilitate negotiations in an effort to resolve the pending issues.
6. Complainant's attorney has discussed the Motion for Extension of Prehearing Order deadlines, and Respondent's attorney has expressed approval of the extension and has no objection.

FOR THESE REASONS, Complainant respectfully request that this Motion be granted and that each of the PREHEARING ORDER deadlines regarding the Prehearing Exchange be extended by 45 days.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing COMPLAINANT'S MOTION FOR EXTENSION OF PREHEARING ORDER DEADLINES was sent to the following persons, in the manner specified, on the date below:

Via Electronic Transmission Honorable Judge Christine Donelian Coughlin
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Ave., NW
Washington, D.C.
Facsimile: 916/550-9639

Via Electronic Transmission: Pete Domenici
Respondent's Attorney
320 Gold Ave. SW Suite 1000
Albuquerque, New Mexico 87102
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Date: December 15, 2022

Efren Ordóñez