



3. On May 15, 2023, the Agency moved to stay this proceeding pending resolution of *Thomas Villegas and Amy Villegas v. Regan et al.*, No. 23-cv-2171 (D. Kan.), which the Tribunal denied on May 17, 2023, on the basis that “[f]urther indefinite delay, in the face of an unknown judicial ruling coming at an unknown time, is not warranted.” Upon Complainant’s motion for reconsideration dated May 24, 2023, the Tribunal granted a stay of proceedings until August 8, 2023, so that Complainant could consider whether to pursue its enforcement action against Respondents in federal court rather than administratively.

4. Clean Water Act section 309(g)(1) provides EPA with the discretion to assess civil penalties through administrative adjudication. 33 U.S.C. § 1319(g)(1) (EPA Administrator “may” assess civil penalties under the subsection based on specific findings). EPA has now decided to forego efforts to assess penalties for the previously alleged violations through administrative proceedings. EPA will instead pursue any further action to assess civil penalties, if any, for the previously alleged violations judicially in an Article III court pursuant to 33 U.S.C. § 1319(d). Accordingly, EPA seeks to withdraw this administrative complaint, Docket No. CWA-07-2022-0104, *with prejudice* to re-filing administratively.

5. As directed by the Tribunal’s Prehearing Order of September 8, 2022, the undersigned has conferred with counsel for Tom and Amy Villegas prior to filing this Motion. EPA understands Respondents to have no objection to this motion.

RESPECTFULLY SUBMITTED this 7th day of July 2023.

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CERTIFICATE OF SERVICE

I certify that on the date noted below I filed via the E-Filing system the original of this Motion to Withdraw Administrative Complaint.

A copy was sent by email to Vanessa Silke and Hannes Zetsche, counsel for Respondents, at *vsilke@bairdholm.com* and *hzetsche@bairdholm.com*, respectively.

Date: 7/7/2023

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