

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2012 JAN 10 PM 2:20

In the Matter of:

XTO Energy, INC.

Respondent.

)  
)  
)  
)  
)

Docket No. SDWA-08-2010-0080

FILED  
EPA REGION VIII  
HEARING CLERK

**ORDER TO FILE STATUS REPORT**

This action, initiated by the Complainant, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency (EPA) Region 8, seeks to assess a Class I administrative penalty under Section 1423(c)(1) of the Safe Drinking Water Act (SDWA or Act), 42 U.S.C. § 300h-2(c)(1). Class I penalty actions are governed by procedures set forth in the revised rules for non-Administrative Procedures Act (non-APA) cases. *See* 40 C.F.R. Part 22, Subpart I. I have been assigned to act as Presiding Officer in this matter.

Complainant filed the Administrative Complaint ("Complaint") in this action on September 27, 2010. A United States mail return receipt, commonly referred to as a "green card," filed with the Regional Hearing Clerk indicates that the Complaint was served on the Respondent, XTO Energy, Inc., on September 30, 2010, making the apparent due date for Respondent's answer October 30, 2010. On October 28, 2010, Complainant filed a Motion for Extension of Time for Respondent to File Answer. The Motion states the parties reached an agreement in principle; however, the public comment period, required by the Act, did not expire until November 25, 2010. The Motion requested an extension to file an answer until November 29, 2010. On October, 29, 2010, this court granted the Motion.

The Regional Hearing Clerk's file in this case contains no other filings. After giving consideration to the entire record in this matter and to the Presiding Officer's responsibility to avoid delay in these proceedings, it is ordered that the parties shall comply with following measures for the orderly and efficient conduct of these proceedings:

On or before **February 1, 2012**, Complainant shall file a report on the status of this matter, including, at a minimum: (1) a statement concerning whether Complainant intends to file a motion for default and, if applicable, the date Complainant expects to file its motion; 2) if Complainant does not intend to file a motion for default, its position concerning an extension of the due date for Respondent's answer; 3) a summary of recent contacts between the parties (without disclosing the substance of settlement negotiations); 4) an assessment of whether settlement of this matter appears likely; 5) a statement concerning whether a settlement in principle has been reached; and 6) if applicable, a projected date for the filing of a Consent Agreement and Final Order.

**SO ORDERED**, this 10<sup>th</sup> day of January, 2012.

A handwritten signature in black ink, appearing to read 'Elyana R. Sutin', written over a horizontal line.

Elyana R. Sutin  
Regional Judicial Officer  
Region 8

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **ORDER TO FILE STATUS**, in the matter of **XTO ENERGY, INC.; DOCKET NO.: SDWA-08-2010-0080** was filed with the Regional Hearing Clerk on January 10, 2012.

Further, the undersigned certifies that a true and correct copy of the document was delivered Brenda Morris, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on January 10, 2012, to:

Corporation Services Company  
2180 South 1300 East, Suite 650  
Salt Lake City, UT 84106

January 10, 2012



Tina Artemis  
Paralegal/Regional Hearing Clerk