

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Received by
EPA Region VIII
Hearing Clerk

IN THE MATTER OF:)	Docket No. CWA-08-2021-0017
)	
The City of Helena, Montana,)	COMPLAINANT’S RESPONSE TO
)	RESPONDENT’S MOTION TO STAY
)	PROCEEDINGS
)	
Respondent)	
)	

The City of Helena, Respondent in this matter, has filed a Motion to Stay Proceedings, citing a lawsuit filed on November 16, 2021, in the United States District Court for the District of Montana. The lawsuit is a challenge to a “Final Determination” by the United States Environmental Protection Agency, which is indicated as having the same Docket Number as this administrative penalty proceeding. The Hon. Katherin Hall, Regional Judicial Officer for EPA Region 8, has issued an order directing Complainant to file a response to the Motion to Stay Proceedings no later than January 26, 2022.

Complainant’s counsel first learned of the lawsuit having been filed when Complainant’s counsel was copied on a January 11, 2022, email from Respondent’s counsel to the Regional Hearing Clerk. The email transmitted the Respondent’s Motion to Stay Proceedings. The complaint in the federal lawsuit was an attachment to the motion. The complaint had not been served on the United States at the time. It has since been served on the United States. The answer of the United States is due by March 14, 2022.

Accordingly, Complainant requests a stay in this matter until March 28, 2022, to provide Complainant an opportunity to confer with the United States Department of Justice. If a stay is granted until that date, Complainant will file a status report with this tribunal no later than March 28, 2022.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

Date: _____

By: _____
Margaret J. Livingston
Senior Assistant Regional Counsel
Office of Regional Counsel
Region 8, U.S. EPA
1595 Wynkoop Street
Denver, Colorado 80202
(303) 312-6133
Livingston.peggy@epa.gov
Counsel for Complainant

CERTIFICATE OF SERVICE

I certify the foregoing Complainant's Response to Respondent's Motion to Stay Proceedings is being transmitted by email on January 26, 2022 to:

Ms. Catherine Laughner, Attorney
Browning, Kaleczyc, Berry & Hoven, P.C.
801 W. Main, Suite 2A
Helena, Montana 59715
cathyl@bkbh.com

and

Thomas J. Jodoin
Helena City Attorney
316 N. Park Avenue
Helena, MT 59623
tjdoin@helenamt.gov

In addition, a copy of the foregoing Complainant's Response to Respondent's Motion to Stay Proceedings is being emailed on January 26, 2022 to the Regional Hearing Clerk for EPA Region 8, at R8_Hearing_Clerk@epa.gov.

By: _____
Margaret J. Livingston