



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

2015 JAN 29 PM 1:35

In the Matter of: )
Geason Enterprises, L.L.C., et al.,1 ) Docket No. CAA-HQ-2013-8050
Respondents. )

ORDER CLOSING CASE BEFORE THE OALJ AND REFERRING CASE BACK TO THE EAB

On January 21, 2015, the Agency filed Complainant’s Sixth and Final Report on the Status of a Consent Agreement and Final Order, which indicates that all of the parties to this action, with the exception of Respondent Shanghai Tong Jian Sports Equipment Co., Ltd. (“STJ”), “have reached final agreement on the CAFO and the EPA has received the original executed signature pages from respondents Geason Enterprises, L.L.C., GE Ventures, L.P., Hammerhead Off-Road, Inc., TJ Power Sports L.L.C., and Shanghai Howhit Machinery Manufacture Co., Ltd.” The Agency asserts that the parties expect the CAFO to be transmitted to the Environmental Appeals Board (“EAB”) “within the next few weeks” for approval and therefore, will not be submitting further status reports.2

The parties to the CAFO are commended for reaching a settlement, which is encouraged by Agency policy and obviates the need for hearing. 40 C.F.R. § 22.18(b)(1), (b)(3). As cases are referred to the Office of Administrative Law Judges (“OALJ”) solely for the purpose of providing respondents with the right to a hearing on the record, if so requested or deemed appropriate by the presiding Judge, there is no longer any need for the undersigned to preside over this matter in regard to them. 40 C.F.R. §§ 22.4(c), 22.15(b), (c).

Further, it is at best unclear whether OALJ has jurisdiction over the Agency’s remaining pending claims against STJ, who is the one remaining respondent not a party to the CAFO. Under the Consolidated Rules of Practice Governing the Administrative Assessment of Civil

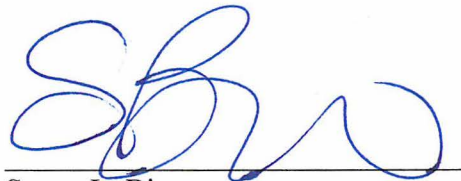
1 The other parties to this proceeding are GE Ventures, L.P., Hammerhead Off-Road, Inc., TJ Power Sports L.L.C., Shanghai Howhit Machinery Manufacture Co., Ltd., and Shanghai Tong Jian Sports Equipment Co., Ltd.

2 The EAB “approves settlement of proceedings . . . commenced at EPA Headquarters,” such as in this case. 40 C.F.R. §§ 22.4(a); 22.18(b)(3).

Penalties and the Revocation/Termination or Suspension of Permits, which govern this proceeding, set forth at 40 C.F.R. Part 22 (“Rules of Practice”), the EAB serves as the Presiding Officer in proceedings such as this commenced at “EPA Headquarters” “until the respondent files an answer.” 40 C.F.R. § 22.4(a). In response to a Motion for Default against STJ filed early in this proceeding, on December 16, 2013, the EAB ruled that where all of the Respondents except one (STJ) had filed answers, it was more efficient and more consistent with the intent of the Rules of Practice for the Motion to be considered by OALJ instead of the Board. Thereafter, by Orders dated January 13, 2014, and February 6, 2014, the undersigned denied Complainant’s motions seeking default judgment against STJ based upon insufficient evidence in the record of proper service of the Complaint on STJ. *Geason Enterprises, L.L.C., et al.*, 2014 EPA ALJ LEXIS 1 (ALJ, Jan. 13, 2014) (Order on Complainant’s Motion for Default); *Geason Enterprises, L.L.C., et al.*, 2014 EPA ALJ LEXIS 6 (ALJ, Feb. 6, 2014) (Order on Complainant’s Renewed Motion to Default). Thus, at this point, STJ is the one and only remaining respondent who has not answered the Complaint and has not requested a hearing. In light of this, and the fact that the EAB has jurisdiction over the CAFO in regard to the settling respondents, it appears appropriate for this Tribunal to defer to the jurisdiction of EAB in regard to this matter as a whole.

Accordingly, this proceeding is hereby removed from OALJ’s docket and for the purposes of this Tribunal only, is deemed **CLOSED**. Further, this matter is **REFERRED in whole** back to the EAB for further proceedings as appropriate.

**SO ORDERED.**



Susan L. Biro  
Chief Administrative Law Judge

Dated: January 29, 2015  
Washington, D.C.

In the Matter of *Geason Enterprises, L.L.C., et al.*, Respondents.  
Docket No. CAA-HQ-2013-8050

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Closing Case Before the OALJ and Referring Case Back to the EAB, dated January 29, 2015, issued by Susan L. Biro, Chief Administrative Law Judge, were sent this 29th day of January 2015, in the following manner to the addressees listed below.



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**Dated: January 29, 2015**  
**Washington, DC**