



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Tom Villegas and Amy Villegas,) **Docket No. CWA-07-2022-0104**
)
Respondents.)

**ORDER ON AGENCY’S MOTION FOR RECONSIDERATION OF ORDER ON
MOTION TO STAY**

This matter commenced on August 2, 2022, when the Director of the Enforcement and Compliance Assurance Division of Region 7 of the U.S. Environmental Protection Agency (“Agency”) filed a Complaint and Notice of Opportunity for Hearing against Tom Villegas and Amy Villegas (“Respondents”), alleging violations of Sections 301 and 404 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1344.

On April 20, 2023, Respondents filed a civil action in federal court in which they seek to enjoin this administrative proceeding. *See Villegas v. Regan*, No. 2:23-cv-02171-EFM-TJJ (D. Kan. filed April 20, 2023). The Agency subsequently moved to stay this matter pending resolution of Respondents’ lawsuit, and I denied the motion due to the indefinite length of the proposed stay and the Agency’s failure to assert the existence of any pressing need for a stay. *See Order on Agency’s Mot. to Stay* (May 17, 2023); *Agency’s Mot. to Stay* (May 15, 2023).

On May 24, 2023, the Agency moved for reconsideration of my order denying the motion to stay. *See Mot. for Recons. of Order on Mot. to Stay or to Forward Order for EAB Review* (“Motion for Reconsideration”). In its Motion for Reconsideration, the Agency states that it is now seeking a stay of proceedings until August 8, 2023, while it considers whether to pursue its enforcement action against Respondents judicially in federal court rather than administratively. *Mot. for Recons.* at 2. If the Agency decides to file in a judicial forum, it states that it would withdraw the Complaint in this matter, closing this proceeding. If the Agency decides not to proceed judicially, the Agency asserts it will “vigorously press its allegations of violation and assessment of penalties before [this] Tribunal.” *Mot. for Recons.* at 2-3. The Agency further declares that Respondents do not oppose the request for a stay. *Mot. for Recons.* at 2, 5.

As set forth in my Order on Agency’s Motion to Stay, “[w]hether to grant a stay of proceeding is within my discretion and generally involves consideration of the following factors:

whether or not the stay will serve the interests of judicial economy, result in unreasonable or unnecessary delay, or eliminate any

unnecessary expense and effort; the extent, if any, of hardship resulting from the stay, and of adverse effect on the judge's Docket; and the likelihood of records relating to the case being preserved and of witnesses being available at the time of any hearing.

Order on Agency's Mot. to Stay at 1 (quoting *Borla Performance Indus.*, EPA Docket No. CAA-09-2020-0044, 2022 WL 887454, at *3 (ALJ, March 15, 2022)). "Further, '[i]t is the responsibility of this Tribunal to ensure that the matters on its docket move ahead in a timely fashion,' and a stay cannot be 'so extensive that it is immoderate or indefinite in duration' absent 'a pressing need.'" *Id.*; see also 40 C.F.R. § 22.4(c)(10).

Now that the Agency has provided a date certain for the conclusion of the stay and asserted a valid reason to support it—namely, to determine whether to pursue this matter judicially rather than administratively—I find that it will serve the interests of judicial economy and not cause unnecessary delay to stay this matter. Further, Respondents consent to the stay and will not be prejudiced thereby.

Accordingly, the Agency's Motion for Reconsideration is **GRANTED**. This proceeding is stayed until **August 8, 2023**.

SO ORDERED.




Susan L. Biro
Chief Administrative Law Judge

Dated: May 25, 2023
Washington, D.C.

In the Matter of *Tom Villegas and Amy Villegas*, Respondents.
Docket No. CWA-07-2022-0104

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Agency's Motion for Reconsideration of Order on Agency's Motion to Stay**, dated May 25, 2023, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



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Dated: May 25, 2023
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