

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

BEFORE THE ADMINISTRATOR

IN THE MATTER OF:)
)
BURNHAM ASSOCIATES, INC.,) **Docket No. MPRSA-01-2010-0078**
)
Respondent)

ORDER STAYING PREHEARING DEADLINES

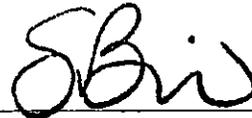
This action was initiated on September 30, 2010, by the United States Environmental Protection Agency, Region 1, Office of Environmental Stewardship (“Complainant” or “EPA”), filing an Administrative Complaint against Respondent, Burnham Associates, Inc., under Section 105(a) of the Marine Protection, Research, and Sanctuaries Act (“MPRSA”), 33 U.S.C. § 1415(a). The Complaint alleges that Respondent violated Section 101(a) of the MPRSA, 33 U.S.C. § 1411(a), by transporting and dumping dredged material into ocean waters in a manner inconsistent with a permit issued under Section 103 of the MPRSA, 33 U.S.C. § 1413. On October 25, 2010, Respondent filed an Answer and Request for Hearing (“Answer”) and a Motion to Dismiss for Insufficiency of Service of Process (“Motion”). By Order dated December 21, 2010, Respondent’s motion was denied. By Prehearing Order dated January 10, 2011, Complainant was ordered to file its Prehearing Exchange on or before February 18, 2011.

Complaint’s Motion To Amend Complaint was filed February 10, 2011. That Motion closed with a request to delay the deadline to file Complainant’s Prehearing Exchange, pending a decision on its Motion to Amend Complaint. Complainant states that it provided Respondent with a copy of the proposed amended complaint but is uncertain whether Respondent will file objections to the Motion, because Respondent is tied up on another matter. To date, Respondent has not filed a response to the Motion.

The rules applicable to this proceeding provide that responses to motions must be filed within 15 days after service of such motion, allowing five additional days for responses to documents served by first class mail or commercial delivery service, but not by overnight or same-day delivery. 40 C.F.R. §§ 22.7, 22.16. Complainant’s Motion was served on Respondent on February 9, 2011, by certified mail, return receipt requested. Therefore Respondent’s response to the Motion is due on or before February 24, 2011. Complainant’s Prehearing Exchange is currently due February 18, 2011, which is before Respondent’s response to the Motion is due.

The Motion is hereby **GRANTED in part**, with respect to the request for delay of the Prehearing Exchange deadline, as follows: Good cause exists to grant the delay. It is in the interest of the parties and judicial economy for the parties to fully brief any matter of dispute in this case. Hearing of this matter has not been set and, therefore, granting the brief extension will not prejudice the parties. Therefore, all deadlines in the undersigned's January 10, 2011 Prehearing Order are **STAYED** until further order of this tribunal. A ruling on Complainant's Motion to Amend Complaint will be issued after Respondent files a response or the time for filing a response has expired.

SO ORDERED.



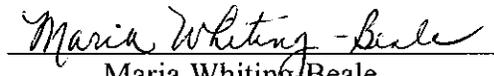
Susan L. Biro
Chief Administrative Law Judge

Dated: February 16, 2011
Washington, D.C.

In the Matter of Burnham Associates, Inc., Respondent
Docket No.MPRSA-01-2010-0078

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Staying Prehearing Deadlines**, dated February 16, 2011, was sent this day in the following manner to the addressees listed below.



Maria Whiting-Beale
Staff Assistant

Dated: February 16, 2011

Original And One Copy By Pouch Mail To:

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Copy By Pouch Mail To:

Tonia Bandrowicz, Esquire
Enforcement Counsel
Office of Environmental Stewardship
U.S. EPA
Mail Code OES04-3
5 Post Office Square, Suite 100
Boston, MA 02109-3219

Copy By Regular Mail To:

John D. Fitzpatrick, Esquire
Pingitore & Fitzpatrick, LLC
929 Massachusetts Avenue, Suite 2800
Cambridge, MA 02139