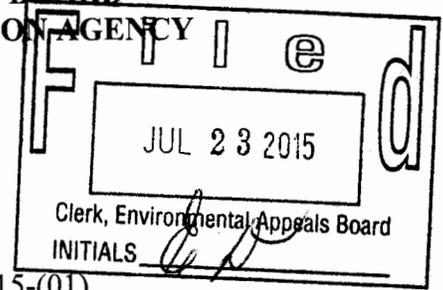


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



_____)
In re:)
)
Page One Plus Wholesale, Inc.)
)
Docket No. SDWA-06-2014-1106)
)
_____)

SDWA Appeal No. 15-(01)

**ORDER ADDRESSING RESPONDENT'S MOTION
TO VACATE DEFAULT ORDER**

On June 9, 2015, the Regional Judicial Officer for the U.S. Environmental Protection Agency, Region 6, issued an Initial Decision and Default Order (“Default Order”) holding Respondent Page One Plus Wholesale, Inc., liable for violating the Safe Drinking Water Act, 42 U.S.C. §§ 300f – 300j–26. The Default Order further directed Respondent to comply with the Region’s Compliance Order and assessed a \$7000 penalty. On June 30, 2015, Respondent sent to Region 6 a motion to vacate the Default Order. The Regional Hearing Clerk docketed that motion as filed on July 13, 2015.

Under the Consolidated Rules of Practice, “[t]he initial decision of the [Regional Judicial Officer] shall become a final order 45 days after its service upon the parties and without further proceedings unless * * * [a] party moves to set aside a default order that constitutes an initial decision [] or * * * [t]he Environmental Appeals Board elects to review the initial decision on its own initiative.” 40 C.F.R. § 22.27(c)(3), (4); *see also In re Hagerstown Aircraft Services, Inc.*, RCRA (3008) Appeal No. 13-01, at 3 (EAB Aug. 15, 2013) (Section 22.27(c) provides respondents 45 days after service to move to set aside default orders).

When a respondent timely moves to set aside a default order under 40 C.F.R. § 22.27(c), the matter remains with the Regional Judicial Officer while the motion is pending. *In re Barry*, CWA Appeal No. 11-07, at 5 (EAB Dec. 5, 2011). The motion further stays the time periods for an appeal to the Environmental Appeals Board and for the Board to elect review. Those time periods begin again in full when the Regional Judicial Officer denies the motion or issues an amended decision. *See, e.g., In re Hagerstown Aircraft* at 3 (citing *In re JHNY, Inc.*, 12 E.A.D. 372, 381-82 n.14 (EAB 2005); *In re B&L Plating, Inc.*, 11 E.A.D. 183, 190 (EAB 2003)); *In re Barry* at 5; *cf.* 40 C.F.R. § 22.28(b).

Here, the Regional Hearing Clerk docketed Respondent's motion to vacate as filed within 45 days of service of the Default Order. The motion is thus timely, and the matter remains with the Regional Judicial Officer. When the Regional Judicial Officer either denies Respondent's motion or issues an amended decision, Respondent will have 30 days after service to appeal the decision to the Board, and the Board will have 45 days to elect review.

So ordered.

ENVIRONMENTAL APPEALS BOARD¹

Dated: _____

7/23/2015



Mary Beth Ward
Environmental Appeals Judge

¹ The three-member panel deciding this matter consists of Environmental Appeals Judges Mary Kay Lynch, Kathie A. Stein, and Mary Beth Ward.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing Order Addressing Respondent's Motion to Vacate Default Order in the matter of *Page One Plus Wholesale Inc.*, SDWA Appeal No. 15-(01), were sent to the following persons in the manner indicated:

By First Class U.S. Mail, Return Receipt Requested:

Mr. Terrance L. Lewis
PageOne Plus Wholesale, Inc.
P.O. Box 691335
Tulsa, OK 74169

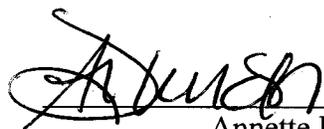
Mr. Terrance L. Lewis
14432 E. 36th Street
Tulsa, OK 74134

By EPA Pouch Mail:

Russell Murdock
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA Region 6
Mail Code 6RC-EW
1445 Ross Ave., Suite 1200
Dallas, Texas 75202-2733

Lorena S. Vaughn
Regional Hearing Clerk
U.S. EPA Region 6
Mail Code 6RC-EC
1445 Ross Ave.
Dallas, Texas 75202-2733

Dated: JUL 23 2015



Annette Duncan
Secretary