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**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
ROBERT M. LOOMIS) **Docket No. CWA-10-2011-0086**
and)
NANCY M. LOOMIS,)
)
)
)
Respondents) **Dated: April 10, 2012**

ORDER ON JOINT MOTION TO STAY PROCEEDINGS

The hearing in this matter is currently scheduled to begin on May 1, 2012. On March 29, 2012, the parties filed a Joint Motion to Stay Proceedings (“Motion”). The parties stated in the Motion that they had “reached agreement on the terms of a settlement fully resolving this matter,” and requested a 45-day stay of these proceedings to allow the parties to draft and execute a Consent Agreement and Final Order (“CAFO”). On March 30, 2012, the undersigned issued an Order extending the deadline for submission of joint stipulations to April 13, 2012, and holding the parties’ Motion in abeyance.

On April 6, 2012, Complainant submitted a Status Report stating that the parties have agreed on a civil penalty amount to settle the complaint and have reached an agreement concerning the “restoration and mitigation of alleged unauthorized dredge and fill material discharged on Respondents’ property.” The Status Report also states that a CAFO “has been drafted and discussed among counsel,” but that Complainant estimates the CAFO “likely will take another two weeks” for client concurrence, signatures and final execution, and that “[l]ikewise, a draft Administrative Order on Consent for restoration and mitigation has been drafted and discussed among counsel,” but will take approximately two weeks to be finalized. Status Report at 1–2. In the Status Report, Complainant reiterates the request to stay proceedings in this matter on the basis that “the parties have reached agreement on the fundamental settlement terms and are diligently working on the documents required to effectuate settlement,” and therefore wish to focus efforts on settlement rather than preparing for hearing. Complainant asserts that Respondents’ counsel concurs with the request for stay. Status Report at 2.


A 45-day stay of proceedings would necessitate postponement of the hearing. The Rules of Practice governing this proceeding, 40 C.F.R. Part 22, provide, “No request for postponement of a hearing shall be granted except upon motion and for good cause shown.” 40 C.F.R. § 22.21(c).

It is in the interest of the parties and judicial economy for the parties to resolve this case amicably through settlement. However, Complainant represents that the settlement documents should be finalized in two weeks, which would precede the date set for commencement of the hearing by more than a week, and therefore does not indicate good cause to postpone the hearing or to stay this proceeding for 45 days.

Nevertheless, the parties have shown good cause to extend the due date for submission of joint stipulations and prehearing briefs. The Rules of Practice provide that the presiding officer may grant an extension of time for filing any document "upon timely motion . . . , for good cause shown, and after consideration of prejudice to other parties." 40 C.F.R. § 22.7(b). Neither party would be prejudiced in this case by an extension of time for filing documents, applicable to both parties.

Accordingly, the Joint Motion to Stay Proceedings is **DENIED**. However, the parties are granted relief from the due dates previously set for filing documents. In the event the parties have not filed a fully executed Consent Agreement and Final Order settling this matter beforehand, the parties shall file Stipulated Facts, Exhibits and Testimony **on or before April 25, 2012**. The parties may file prehearing briefs **on or before April 27, 2012**.

SO ORDERED.



M. Lisa Buschmann
Administrative Law Judge

In the Matter of Robert M. Loomis and, Nancy M. Loomis, Respondent.
Docket No. CWA-10-2011-0086

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **Order on Joint Motion to Stay Proceedings** dated April 10, 2012, in the following manner to the addressees listed below.


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Legal Staff Assistant

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Dated: April 10, 2012
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