



**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 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.

Before me now is the Agency’s request to stay this proceeding. *See* Motion to Stay (May 15, 2023). The Agency bases its motion on a pending civil action that Respondents recently initiated in federal court contesting “whether this proceeding may be brought in this forum as presently constituted.” Mot. at 1 (citing *Villegas v. Regan*, No. 2:23-cv-02171-EFM-TJJ (D. Kan. filed April 20, 2023)). The Agency asks for a stay of this proceeding until Respondents’ judicial complaint is resolved and states that Respondents do not object.

Whether 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.

*Borla Performance Indus.*, EPA Docket No. CAA-09-2020-0044, 2022 WL 887454, at \*3 (ALJ, March 15, 2022) (citing *John Crescio*, EPA Docket No. 5-CWA-98-004, 1999 WL 362862, at \*1 (ALJ, Feb. 26, 1999) (Order on Joint Mot. for Staying Proceedings)). 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).

Given these considerations, I do not find it appropriate to stay this proceeding while waiting for the federal court to address Respondents' claims in *Villegas v. Regan*. The mere existence of a lawsuit challenging the constitutionality of this proceeding is not "a pressing need," and it would result in unreasonable and unnecessary delay that would not serve the interests of judicial economy. This matter has already been prolonged by several extensions of filing deadlines. Further indefinite delay, in the face of an unknown judicial ruling coming at an unknown time, is not warranted. I see no reason to stay this proceeding unless and until instructed to do so by the federal court.

Accordingly, the Agency's Motion to Stay is **DENIED**.

**SO ORDERED.**



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Susan L. Biro  
Chief Administrative Law Judge

Dated: May 17, 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 to Stay**, dated May 17, 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 17, 2023  
Washington, D.C.