



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
CBD American Shaman, LLC,) Docket No. FIFRA-07-2022-0142
)
Respondent.)

**ORDER ON COMPLAINANT’S FOURTH MOTION FOR EXTENSION OF
PREHEARING DEADLINES**

This proceeding was initiated on April 10, 2023, with the filing of a Complaint by Complainant, the Director of the Enforcement and Compliance Assurance Division of Region 7 of the U.S. Environmental Protection Agency (“Agency”), against Respondent CBD American Shaman, LLC, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136l. Respondent subsequently filed an Answer to the Complaint, in which it denied the alleged violations and requested a hearing. After I was designated to preside over the proceeding, I issued a Prehearing Order setting deadlines for a number of prehearing procedures, including the filing of a fully-executed Consent Agreement and Final Order (“CAFO”) if the parties achieved settlement of this matter, and a prehearing exchange of information by each party if settlement was not achieved in the meantime.

Following the issuance of the Prehearing Order, Complainant filed three unopposed motions seeking extensions of the prehearing deadlines because of the parties’ progress towards settling this matter. Motion for Extension of Time to File Prehearing Exchange and/or a Consent Agreement and Final Order (June 20, 2023); Motion for Extension of Time to File Prehearing Exchange and/or a Consent Agreement and Final Order (July 17, 2023); Motion for Extension of Time to File Prehearing Exchange and/or a Consent Agreement and Final Order (Aug. 16, 2023). I granted those requests. Order on Complainant’s Motion for Extension of Prehearing Deadlines (June 21, 2023); Order on Complainant’s Second Motion for Extension of Prehearing Deadlines (July 18, 2023); Order Granting Complainant’s Third Motion for Extension of Prehearing Deadlines (Aug. 17, 2023). Additionally, Complainant filed two Status Reports regarding the parties’ progress towards settlement. Status Report (Aug. 3, 2023); Status Report (Aug. 18, 2023). In the most recent Status Report, Complainant advised that the parties have reached a settlement in principle and that Complainant intended to file a fully-executed CAFO on or before September 8, 2023. Status Report (Aug. 18, 2023) ¶¶ 1, 2.

However, on September 6, 2023, Complainant filed a fourth Motion for Extension of Time to File Prehearing Exchange and/or a Consent Agreement and Final Order (“Fourth Motion for Extension”). Therein, Complainant maintains that the parties have reached a settlement in

principle. Fourth Mot. for Extension ¶ 4. Then, without elaboration, Complainant requests an additional four-week extension of the CAFO and prehearing exchange deadlines. Fourth Mot. for Extension ¶ 5. Complainant represents that it notified Respondent of its intention to request this extension but did not receive a response. Fourth Mot. for Extension ¶ 6.

This matter is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules of Practice”) set forth at 40 C.F.R. Part 22. The Rules of Practice provide that I “may grant an extension of time for filing any document: upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.” 40 C.F.R. § 22.7(b).

Here, Complainant’s Fourth Motion for Extension was timely. While Complainant did not offer an explanation for requiring additional time to file a fully-executed CAFO, Complainant represents that the parties are still in agreement on settling this matter, and as reflected in the Rules of Practice, Agency policy supports settlement of a proceeding without the necessity of a formal hearing. 40 C.F.R. § 22.18(b)(1). The interests of the parties and judicial economy continue to be well served by the parties resolving this matter informally and expeditiously. Accordingly, the Fourth Motion for Extension is hereby **GRANTED**. As requested, a fully-executed CAFO shall be filed with the Regional Hearing Clerk on or before **October 6, 2023**, with a courtesy copy filed with the Headquarters Hearing Clerk. If the parties are unable to finalize their settlement by that date, they shall file their prehearing exchanges without any further delay pursuant to the following schedule:

October 6, 2023	Complainant’s Initial Prehearing Exchange
October 27, 2023	Respondent’s Prehearing Exchange
November 13, 2023¹	Complainant’s Rebuttal Prehearing Exchange

SO ORDERED.



Susan L. Biro
Chief Administrative Law Judge

Dated: September 7, 2023
Washington, D.C.

¹ Complainant requests that the deadline for its Rebuttal Prehearing Exchange be extended to November 10, 2023. However, Veterans Day is a Federal holiday and is being observed on November 10, 2023. Thus, I am extending the deadline for Complainant’s Rebuttal Prehearing Exchange to the next business day.

In the Matter of *CBD American Shaman, LLC*, Respondent.
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Complainant's Fourth Motion for Extension of Prehearing Deadlines**, dated September 7, 2023, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



Mary Angeles
Paralegal Specialist

Copy by OALJ E-Filing System to:
U.S. Environmental Protection Agency
Office of Administrative Law Judges
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

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For Respondent

Dated: September 7, 2023
Washington, D.C.