

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

STATE OF ALASKA DEPARTMENT OF
TRANSPORTATION AND PUBLIC
FACILITIES,

Juneau, Alaska

Respondent.

DOCKET NO. CWA-10-2024-0154

**JOINT MOTION FOR EXTENSIONS TO
DEADLINES TO FILE RESPONSES AND
REPLIES TO MOTIONS FOR
ACCELERATED DECISION**

1.1. The U.S. Environmental Protection Agency (“EPA” or “Complainant”) filed a Complaint on August 27, 2024, against the State of Alaska Department of Transportation and Public Facilities (“Respondent”) alleging violations of the Clean Water Act. Shortly after the Respondent filed its Answer, this Tribunal issued a Prehearing Order on October 24, 2024. That Prehearing Order stated that any “[d]ispositive motions regarding liability, such as a motion for accelerated decision or motion to dismiss under Section 22.20(a) of the Rules of Practice, must be filed within 30 days after the due date for Complainant’s Rebuttal Prehearing Exchange.” In accordance with the deadlines established by that Prehearing Order, the EPA filed its Initial Prehearing Exchange on December 6, 2024. On December 18, 2024, Respondent filed an Unopposed Motion for Extension of Time seeking an extension to the deadline for filing its Prehearing Exchange. On December 19, 2024, this Tribunal granted Respondent’s motion, establishing a deadline of January 17, 2025 for Respondent to file its Prehearing Exchange and a deadline of January 31, 2025 for Complainant to file its Rebuttal Prehearing Exchange. Thirty (30) days after the due date for Complainant’s Rebuttal Prehearing Exchange was therefore Sunday, March 2, 2025. According to 40 C.F.R. § 22.7(a), “when a stated time expires on a Saturday, Sunday or Federal holiday, the stated time period shall be extended to include the next

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business day.” Therefore, pursuant to the Prehearing Order, “dispositive motions regarding liability” were due to be filed no later than March 3, 2025.

1.2. On March 3, 2025, Complainant and Respondent (“the Parties”) each filed separate Motions for Accelerated Decision. According to 40 C.F.R. § 22.16(b), a “party’s response to any written motion must be filed within 15 days after service of such motion.” Additionally, “[t]he movant’s reply to any written response must be filed within 10 days after service of such response and shall be limited to issues raised in the response.” Therefore, barring an extension granted by this Tribunal, both Parties’ response to the competing motion for accelerated decision would be due by March 18, 2025 and the movant’s reply to any written response to a motion for accelerated decision would be due March 28, 2025.

1.3. The Parties have conferred and jointly move for the deadline to respond to the competing motions for accelerated decision be extended by fifteen (15) days from the deadline imposed by 40 C.F.R. § 22.16(b). Therefore, the Parties seek for this Tribunal to establish a new deadline of April 2, 2025, for each of the Parties’ respective responses to the competing motions for accelerated decision. Additionally, the Parties jointly move for the deadline for each of the respective “movant’s reply to any written response” to those motions for accelerated decision to be extended by ten (10) days from the deadline imposed by 40 C.F.R. § 22.16(b). Therefore, the Parties seek for this Tribunal to establish a new deadline of April 22, 2025, for each of the Parties’ respective replies to the responses to the motions for accelerated decision.

1.4. The Parties are each governmental entities that may require engagement with multiple levels of management regarding the substance and nature of the content of their briefs. Additionally, the filing of competing motions for accelerated decision means that the Parties will each be concurrently responding to the other motion while also defending its own. As a result, providing the requested minimal extension of deadlines to allow the proper engagement with

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management, as needed, with both competing motions, will allow this Tribunal to get more detailed and fully developed briefs. That will position this Tribunal to make a more informed decision on the merits of each motion. The Parties agree that neither will be prejudiced by the requested deadline extensions.

1.5. The Parties therefore respectfully jointly request that this Tribunal establish a new deadline of April 2, 2025, for each of the Parties' respective responses to the competing motions for accelerated decision. The Parties also respectfully jointly request that this Tribunal establish a new deadline of April 22, 2025, for each of the Parties' respective replies to the responses to the motions for accelerated decision.

Respectfully submitted,

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION 10:

DATE

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STATE OF ALASKA DEPARTMENT OF
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DATE

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CERTIFICATE OF SERVICE

The undersigned certifies that the original JOINT MOTION FOR EXTENSIONS TO DEADLINES TO FILE RESPONSES AND REPLIES TO MOTIONS FOR ACCELERATED DECISION in the above-captioned action was filed within the OALJ E-Filing System to:

Mary Angeles, Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

Further the undersigned certifies that a true and correct copy of the original JOINT MOTION FOR EXTENSIONS TO DEADLINES TO FILE RESPONSES AND REPLIES TO MOTIONS FOR ACCELERATED DECISION was served on Respondent State of Alaska Department of Transportation and Public Facilities via email to:

Brian E. Gregg, Assistant Attorney General
State of Alaska Department of Law
brian.gregg@alaska.gov
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Dated this 4th day of March, 2025.

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