

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CANDACE STUART-STEPHENS AND
JERROD STUART,

Priest River, Idaho

Respondents.

DOCKET NO. CWA-10-2024-0024

**COMPLAINANT’S SECOND STATUS
REPORT**

1.1. The U.S. Environmental Protection Agency (“EPA” or “Complainant”) filed a Complaint on January 25, 2024, against Candace Stuart-Stephens and Jerrod Stuart (“Respondents”) alleging violations of the Clean Water Act. As required by 40 C.F.R. § 22.45(b), Complainant provided public notice of the Complaint on March 6, 2024. Respondents filed an Answer to the Complaint on March 29, 2024. The EPA Region 10 Regional Judicial Officer granted Complainant and Respondents’ (collectively, “the Parties”) Joint Motion for Waiver of Service Requirements for Complaint on April 4, 2024. On April 11, 2024, this Tribunal issued a Prehearing Order that required that, *inter alia*, “if the case is settled, a fully executed Consent Agreement and Final Order . . . shall be filed . . . no later than May 24, 2024.” On May 3, 2024, the Parties filed a Joint Motion to Stay Further Proceedings, explaining that the Parties had reached an agreement in principle but that they would not be able to meet the May 24, 2024 deadline to file a fully executed Consent Agreement and Final Order because comments were received on the public notice from persons not party to the proceeding. On May 7, 2024, this Tribunal granted the Joint Motion to Stay Further Proceedings, requiring that the Parties submit a status report by June 28, 2024 if a fully executed Consent Agreement and Final Order had not been filed with the EPA Region 10 Regional Hearing Clerk by that date. This filing serves as Complainant’s status report to explain why a fully executed Consent Agreement

and Final Order will not be filed with the EPA Region 10 Regional Hearing Clerk by June 28, 2024.

1.2. The Parties fully executed the Consent Agreement and Final Order on May 16, 2024. As soon as practicable thereafter, Complainant sent a copy of the fully executed Consent Agreement and Final Order to each of the commenters via certified mail, return receipt requested. One of the commenters did not retrieve the mailed package containing the fully executed Consent Agreement and Final Order from their U.S. Post Office Box until June 6, 2024.

1.3. 40 C.F.R. § 22.45(c)(4)(i) requires that Complainant “provide to each commenter, by certified mail, return receipt requested, but not to the Regional Hearing Clerk or Presiding Officer, a copy of any consent agreement between the parties and the proposed final order.” Thereafter, 40 C.F.R. § 22.45(c)(4)(ii) provides that “[w]ithin 30 days of receipt of the consent agreement and proposed final order a commenter may petition the Regional Administrator . . . to set aside the consent agreement and proposed final order on the basis that material evidence was not considered.”

1.4. Given that one of the commenters did not receive the fully executed Consent Agreement and Final Order via certified mail until June 6, 2024, Complainant may not file the fully executed Consent Agreement and Final Order with the EPA Region 10 Regional Hearing Clerk until July 8, 2024 to comply with 40 C.F.R. § 22.45(c)(4)(ii).

1.5. If the EPA Region 10 Regional Administrator does not receive a petition to set aside the Consent Agreement and proposed Final Order by July 8, 2024 pursuant to 40 C.F.R. § 22.45(c)(4)(ii), Complainant intends to file the fully executed Consent Agreement and Final Order with the EPA Region 10 Regional Hearing Clerk that same day.

Respectfully submitted,

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION 10:

DATE

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