

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**Region 3**

**Four Penn Center**

**1600 John F. Kennedy Boulevard**

**Philadelphia, Pennsylvania 19103-2852**

In The Matter of )

Mr. Gary Powers and Ms. Angie Powers, )

Respondents. )

Docket No.: CWA-03-2023-0104

Property Located at: )

Along Route 20, at approximately )

38.401286° N, -80.56485° W, )

Near Cowen, Webster County )

West Virginia 26206 )

**UNOPPOSED MOTION FOR FURTHER EXTENSION OF  
PREHEARING DEADLINES**

Pursuant to the Prehearing Order issued November 9, 2023 (Docket Item # 7) (Prehearing Order) and the Order Granting Consent Motion for Extension of Deadlines (Docket Item # 10) issued December 12, 2023 (December 12, 2023 Order), Complainant, through Counsel, submits this Unopposed Motion for Further Extension of Prehearing Deadlines. Complainant respectfully requests a 28-day extension of the deadlines set out in the December 12, 2023 Order for submission of the Parties' Prehearing Exchanges and Complainant's Rebuttal Prehearing Exchange. Respondents have informed Complainant's Counsel that they do not oppose Complainant's request for a 28-day extension, but Respondents have not reviewed the text of this Motion. In support of this Motion, Complainant states as follows:

1. The Complaint in this Matter was filed September 12, 2023.
2. A Prehearing Order was issued November 9, 2023. The Prehearing Order directed the Complainant to file its Prehearing Exchange by December 29, 2023, unless the Parties

filed a fully executed Consent Agreement and Final Order (CAFO) on or before that date.

The Prehearing Order went on to establish a schedule for the Respondents' Prehearing Exchange and Complainant's Rebuttal Prehearing Exchange.

3. On December 6, 2023, Complainant filed an unopposed Motion for an Extension of the Prehearing Deadlines (Docket Item # 8). In its unopposed Motion, Complainant represented that "Respondents [had] agreed to provide Complainant with certain information that will assist Complainant in evaluating Respondents' position regarding settlement. Respondents anticipate providing Complainant with the information on or before December 15, 2023. Complainant further states that the Parties are optimistic that they can settle this matter without further litigation."
4. The December 12, 2023 Order (Docket Item # 10) granting an extension of Prehearing Exchange deadlines issued. Currently, and pursuant to the December 12, 2023 Order, Complainant's Prehearing Exchange is due February 9, 2024; Respondents' Prehearing Exchange is due March 1, 2024; and Complainant's Rebuttal Prehearing Exchange is due March 15, 2024.
5. Respondents provided the information related to potential settlement to Complainant's counsel by email on Friday, December 29, 2023.
6. Complainant completed its evaluation of Respondent's information on February 1, 2024.
7. Based on its evaluation of Respondent's information and other factors, Complainant continues to be optimistic that the Parties can settle this matter without further litigation.
8. The Parties need additional time to negotiate to determine whether a settlement can be reached and, if so, to reduce that settlement to writing.
9. Accordingly, Complainant respectfully requests a 28-day extension to the Prehearing

Exchange deadlines set forth in the December 12, 2023 Order as follows:

<b><u>Action</u></b>	<b><u>Extended Deadline</u></b>
Parties to File Fully Executed Consent Agreement and Final Order (CAFO) (If Settlement is Reached)	March 8, 2024
Complainant's Initial Prehearing Exchange (If no Fully Executed CAFO is filed)	March 8, 2024
Respondents' Prehearing Exchange (If no Fully Executed CAFO is filed)	March 29, 2024
Complainant's Rebuttal Prehearing Exchange (If no Fully Executed CAFO is filed)	April 19, 2024

Respectfully submitted,

Stefania D. Shamet  
Senior Assistant Regional Counsel  
USEPA  
Region 3  
Counsel for Complainant

**CERTIFICATE OF SERVICE**

I certify that on February 5, 2024, the foregoing *Unopposed Motion for Extension of Prehearing Deadlines* was filed via the Office of Administrative Law Judges Electronic Filing System. I further certify that on the dates set forth below, I caused to be served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

On February 5, 2024, Courtesy copy served via email to: [REDACTED]

On February 6, 2024, Copy served via **United States Mail**, to:

Mr. Gary Powers & Ms. Angie Powers  
[REDACTED]  
Cowen, West Virginia 26206

Date: February 5, 2024

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