



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

**In the Matter of:** )  
 )  
**Dave Erlanson, Sr.,** ) **Docket No. CWA-10-2016-0109**  
 )  
**Respondent.** )

**ORDER RESCHEDULING HEARING**

On November 5, 2018, I issued a Notice of Hearing Order that scheduled the hearing to commence on February 12, 2019, and established deadlines for the filing of documents prior to the hearing.

On December 14, 2018, Complainant filed a motion to conduct additional discovery and a motion in limine. Responses to Complainant's motions were due by December 29, 2018. To date, no response to either of Complainant's December 14 motions have been filed.

On December 28, 2018, Complainant filed a Settlement Status Report that stated it was unable to reach Respondent to discuss a settlement. The Status Report also referenced a letter from Respondent, dated December 20, 2018, in which he requested "a delay for any action to March 10, 2019 . . ." so that he "may have an opportunity to seek out new counsel/representation . . ." To date, Respondent's letter of December 20, 2018, has not been filed in this matter but, on January 30, 2019, Complainant's counsel emailed a copy of the letter to the Headquarters Hearing Clerk.

On the same day that Complainant filed its Settlement Status Report, the U.S. Environmental Protection Agency along with many other federal government agencies shut down due to an appropriations lapse, and the Office of Administrative Law Judges was closed. The office did not reopen until January 28, 2019.

The cease in operations of the U.S. EPA interrupted the orderly processing of motions and other logistical processes required for the hearing in this case to proceed as scheduled. Consequently, the hearing in this matter must be rescheduled.

Pursuant to the procedural rules governing this proceeding, set forth at 40 C.F.R. Part 22, I am responsible for scheduling the hearing and determining an appropriate location for the hearing, consistent with 40 C.F.R. §§ 22.21 and 22.19(d). I am also responsible for regulating the course of the hearing consistent with 40 C.F.R. § 22.4. Accordingly, prehearing filing deadlines and the hearing in this matter are scheduled as follows.

**Settlement Status Reports.** Complainant is directed to file Status Reports as to the status of any settlement negotiations between the parties, *which shall not include any specific terms of settlement.* The first Status Report shall be filed on or before **March 22, 2019**, and the second Status Report shall be filed on or before **April 26, 2019**.

**Joint Stipulations.** The time allotted for the hearing is limited. Therefore, the parties shall make a good faith effort to stipulate as much as possible to matters that cannot reasonably be contested. This practice ensures that the hearing is concise and focused solely on those matters that can only be resolved after an evidentiary hearing. Any stipulations reached by the parties shall be filed as a Joint Set of Stipulated Facts, Exhibits, and/or Testimony on or before **April 12, 2019**.

**Prehearing Conference.** A prehearing conference will be scheduled in advance of the hearing and conducted by a staff attorney.

**Prehearing Briefs.** The parties may, if they wish, file prehearing briefs on or before **April 19, 2019**.

**Other Deadlines.** Non-dispositive motions, such as motions for additional discovery, motions for subpoenas, and motions in limine, shall be filed no later than **March 15, 2019**. Similarly, a party seeking to add witnesses, exhibits, or otherwise supplement its prehearing exchange may do so only by motion after **March 15, 2019**. Belated supplements to a party's prehearing exchange may be excluded from evidence at the undersigned's discretion.

**Hearing.** The hearing in this matter shall begin at **9:00 a.m. on Tuesday, May 14, 2019**, and continue as necessary through **Friday, May 17, 2019**, in or around Bonneville County, Idaho. The parties will be timely notified of the precise location for the hearing once sufficient space has been reserved by the Office of Administrative Law Judges.

*Individuals requiring special accommodations at the hearing, such as wheelchair access or the services of an interpreter, shall contact Michael B. Wright, a staff attorney for the Office of Administrative Law Judges, at (202) 564-3247 or wright.michaelb@epa.gov, as soon as possible to ensure that appropriate arrangements can be made. If any party does not intend to attend the hearing or has good cause for not being able to attend the hearing as scheduled, it shall notify the undersigned as soon as possible. Any procedural questions or questions about what to expect at the hearing should be directed to Mr. Wright.*

*RESPONDENT IS ADVISED THAT FAILURE TO APPEAR AT THE HEARING, WITHOUT GOOD CAUSE HAVING BEEN SHOWN, MAY RESULT IN THE ENTRANCE OF DEFAULT JUDGMENT AGAINST HIM.*

*IF EITHER PARTY DOES NOT INTEND TO ATTEND THE HEARING, OR HAS GOOD CAUSE FOR NOT BEING ABLE TO ATTEND THE HEARING AS SCHEDULED, IT SHALL NOTIFY THE UNDERSIGNED AT THE EARLIEST POSSIBLE MOMENT.*

**SO ORDERED.**

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Christine Donelian Coughlin  
Administrative Law Judge

Dated: January 31, 2019  
Washington, D.C.

In the Matter of *Dave Erlanson, Sr.*, Respondent  
Docket No. CWA-10-2016-0109

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order Rescheduling Hearing**, dated January 31, 2019, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.



Michael B. Wright  
Staff Attorney

Original and One Copy by Hand Delivery to:

Mary Angeles  
Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Ronald Reagan Building, Room M1200  
1300 Pennsylvania Ave., NW  
Washington, DC 20004

Copy by Electronic Mail to:

William M. McLaren  
Assistant Regional Counsel  
U.S. Environmental Protection Agency,  
Region 10  
Email: mclaren.william@epa.gov  
*Counsel for Complainant*

J. Matthew Moore  
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*Counsel for Complainant*

Dave Erlanson, Sr.  
Email: tapawingoinc@msn.com  
*Pro se*

Dated: January 31, 2019  
Washington, D.C.