



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

In the Matter of:)
)
Gary Powers and Angie Powers,) **Docket No. CWA-03-2023-0104**
)
Respondents.)

ORDER GRANTING MOTION FOR FURTHER EXTENSION OF PREHEARING DEADLINES

This proceeding was initiated on September 12, 2023, with the filing of a Complaint by Complainant, the Director of the Enforcement and Compliance Assurance Division of Region 3 of the U.S. Environmental Protection Agency (“Agency”), against Respondents Gary Powers and Angie Powers pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g). Respondents subsequently filed an Answer to the Complaint, in which they denied the alleged violations and disputed the Complaint’s proposed penalties. 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.

On December 12, 2023, I granted Complainant’s December 6, 2023, Consent Motion for Extension of Prehearing Deadlines, thereby extending the Prehearing Order’s CAFO and prehearing exchange deadlines by approximately two months. Order Granting Consent Mot. to Extend (Dec. 12, 2023). On February 6, 2023, I granted Complainant’s Unopposed Motion for Further Extension of Prehearing deadlines, thereby extending the same deadlines by an additional 28 days. Order Granting Unopposed Mot. for Further Extension of Prehearing Deadlines (Feb. 6, 2023).

On March 7, 2024, Complainant filed a Motion for Further Extension of Prehearing Deadlines (“Motion”), which seeks a third, 28-day extension of the parties’ deadlines to file a CAFO or their prehearing exchanges. Mot. 1. The Motion represents that the parties have reached an agreement in principle but require additional time to finalize and execute a CAFO. Mot. 1. The Motion further represents that Complainant was unable to reach Respondents for their position before filing the Motion. Mot. 1.

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, the Motion was timely and shows good cause. 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 are well served by the parties resolving this matter informally and expeditiously. In addition, while Complainant was unable to confirm Respondents’ consent to the Motion, I perceive no apparent prejudice to Respondents from extending the parties’ prehearing deadlines while they work to formalize their agreement. Therefore, the Motion is hereby **GRANTED**. The parties shall adhere to the following revised deadlines.

A fully-executed CAFO shall be filed with the Regional Hearing Clerk on or before **April 5, 2024**, with a courtesy copy filed with the Headquarters Hearing Clerk. Alternatively, if the parties are unable to finalize a CAFO by that date, they shall file their prehearing exchanges pursuant to the following schedule:

- | | |
|-----------------------|--|
| April 5, 2024 | Complainant’s Initial Prehearing Exchange |
| April 26, 2024 | Respondents’ Prehearing Exchange(s) |
| May 10, 2024 | Complainant’s Rebuttal Prehearing Exchange |

SO ORDERED.


Christine Donelian Coughlin
Administrative Law Judge

Dated: March 7, 2024
Washington, D.C.

In the Matter of *Gary Powers and Angie Powers*, Respondents.
Docket No. CWA-03-2023-0104

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Motion for Further Extension of Prehearing Deadlines**, dated March 7, 2024, and issued by Administrative Law Judge Christine Donelian Coughlin, 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

Copy by Electronic Mail to:
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For Complainant

Copy by Regular Mail to:
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P.O. Box 285
Cowen, WV 26206
Respondents (pro se)

Dated: March 7, 2024
Washington, D.C