

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Dave Erlanson, Sr., Individual,

Swan Valley, Idaho,

Respondent.

DOCKET NO. CWA-10-2016-0109

**STATUS REPORT AND
STATEMENT OF AVAILABILITY**

In response to the Presiding Officer's Prehearing Order of September 27, 2018 ("Order"), Complainant Environmental Protection Agency ("Complainant" or "EPA") respectfully submits this Status Report as to the status of settlement discussions in the above captioned action, as well as a statement of Complainant's availability.

I. SETTLEMENT CONFERENCE STATUS REPORT

On October 2, 2018, the undersigned proposed to Mr. Pollot, counsel for Mr. Erlanson ("Respondent"), a range of dates for a settlement conference as required by the Order. Mr. Pollot timely responded with his preliminary agreement, pending his client's availability, on a date for the ordered settlement conference. Thereafter, Mr. Pollot informed the undersigned that Respondent was unavailable on that date. Counsel for both parties agreed to attempt to hold a settlement conference during the week preceding October 18, 2018, 21 days following the Order and the due date of this Status Report.

On October 15, 2018, the undersigned attempted via email to schedule a settlement conference with Mr. Pollot but received no response. On October 17, 2018, the undersigned called Mr. Pollot and left a voicemail. As of the date of this filing, the parties have been unsuccessful in engaging in a settlement conference. The undersigned has no reason to believe the parties' inability to engage in a settlement conference is due to bad faith or lack of interest in settlement. Attempts will persist and another status report will be promptly filed should a settlement conference occur.

II. STATEMENT OF AVAILABILITY

Pursuant to Part IV. (4) of the Order, EPA declares the following:

1. Periods of unavailability:

One of the designated witnesses for Complainant is unavailable to testify during January 2019 due to a significant medical event estimated that month and attendant recovery time. Complainant respectfully requests the Tribunal schedule a hearing in this matter during the February or March 2019 timeframe.

2. Estimated time needed to present direct case:

Complainant estimates needing no more than three days to present its direct case and requests the hearing be scheduled for at least that long. Complainant will nonetheless aspire to complete its direct case within two days.

Dated this 18th day of October, 2018.

Respectfully submitted,

/s/ William M. McLaren

William M. McLaren
Assistant Regional Counsel
U.S. EPA, Region 10

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 18, 2018, a true and correct copy of the foregoing was also filed electronically with be the Clerk of the Office of Administrative Law Judges using the ALJ e-file system, which sends a Notice of Electronic Filing to Respondent.

/s/ William M. McLaren _____

William M. McLaren
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