

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

MOTION FOR STATUS CONFERENCE

Complainant Environmental Protection Agency (“Complainant” or “EPA”) respectfully submits this Motion for Status Conference requesting a status conference regarding recent updates in Respondent’s representation status and its effects, if any, on the proceedings in this matter.

Following EPA’s Status Report (Docket No. 42) submitted on November 16, 2018, pursuant to the Presiding Officer’s Notice of Hearing Order of November 5, 2018 (“Order”), EPA’s counsel has tried unsuccessfully to schedule a settlement conference with Respondent through Respondent’s counsel, Mr. Pollot.¹

On December 9, 2018, EPA became aware of Mr. Pollot’s withdrawal or intent to withdraw as counsel for Respondent—it is unclear whether formal withdrawal has yet occurred or is planned. EPA’s counsel attempted on December 10, 2018, to obtain Respondent’s contact

¹ Outreach attempts by counsel for Complainant to counsel for Respondent via telephone and email on November 27, November 28, December 3, and December 7 were met with one response on November 28 of “I will check with him again and get back to you.”

information from Mr. Pollot to jointly arrange a status conference with the Court, but has received no response from Mr. Pollot or Respondent.

Due to the impending Order deadlines, including one as soon as December 14, 2018, which are binding on both parties, and the fact that Respondent may now be representing himself *pro se* in this matter or is not represented at this time, EPA moves this Court to host a status conference at its earliest convenience. While EPA defers to the Presiding Officer's discretion, EPA believes a status conference could serve to: (1) clarify Respondent's current representation status; (2) explain deadlines or any other matters of procedure to Respondent in his *pro se* capacity; and (3) confer with both parties regarding potential changes to prehearing deadlines resulting from late withdrawal of counsel, if any are necessary.

EPA understands that this Motion and its urgency are procedurally awkward but, given many failed attempts to confer on this and other matters, EPA believes it is best to involve the Presiding Officer or any other representative of the Tribunal at this time.

CONCLUSION

For all of these reasons, EPA respectfully requests that the Presiding Officer convene a phone status conference with EPA and Respondent at the Presiding Officer's earliest convenience.

Dated this 11th day of December, 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 December 11, 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

Assistant Regional Counsel

U.S. EPA, Region 10

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