



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

In the Matter of: )
Taotao USA, Inc., ) Docket No. CAA-HQ-2015-8065
Taotao Group Co., Ltd., and )
Jinyun County Xiangyuan Industry )
Co., Ltd. )
Respondents. )

ORDER ON RESPONDENTS' MOTION TO STAY PROCEEDING

On November 12, 2015, Complainant, the United States Environmental Protection Agency ("EPA" or "the Agency"), filed a Complaint against Respondents Taotao USA, Inc. ("Taotao USA"), Taotao Group Co., Ltd. ("Taotao China"), and Jinyun County Xiangyuan Industry Co., Ltd. ("Jinyun") alleging, in eight counts, 64,377 violations of sections 203(a)(1) and 213(d) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a)(1) and 7547(d), and implementing regulations codified at 40 C.F.R. Part 86, Subpart E and 40 C.F.R. §§ 1068.101(a)(1), (b)(5).

More than a year later, on January 12, 2017, Respondents filed a Motion to Stay Proceeding ("Motion"), arguing the Agency is "at the onset of a sweeping regulatory and policy-making transition with the incoming presidential administration of President-Elect Donald Trump expected to nominate and secure a new leader of the Environmental Protection Agency." Mot. at 1. Given the "substantial transition in terms of regulation and enforcement and all related disruptions and delays" that Respondents believe will plague the Agency, they ask that all proceedings in this case be halted until December 2017 so that "the [Agency] has an opportunity to transition and absorb all developments in terms of changing [Agency] polices, practices, guidelines, enforcement, and oversight measures in relation to various provisions of the Clean Air Act, U.S.C. § 7412." Mot. at 1-2. Respondents additionally claim the Agency is obligated to engage in "an overriding cost-benefit analysis . . . to determine whether or not the EPA has the authority to act to the extent that it has in relation to the vehicles in question."1 Mot. at 3. Ultimately, Respondents suggest that the Agency cannot truly determine whether they violated the law if there are "any sudden adjustments to how the Clean Air Act is interpreted or enforced," and this lack of clarity "could cause substantial financial and procedural disruptions for the Respondents as they attempt to resolve these issues and gain clarity on the [Agency's] precise perspective on each issue." Mot. at 3.

1 Respondents also cite to Michigan v. EPA, 135 S. Ct. 2699 (2015), in support of the proposition that the Agency must conduct this analysis. However, that case evaluated the Agency's decision to not consider costs when determining it would regulate emissions from electric utility steam generating units. Id. at 2704-06. It does not apply in this administrative enforcement context.

The Agency counters that Respondents' claimed burdens "are speculative" and that benefits they would obtain from a stay are "purely hypothetical." Complainant's Response Opposing Respondents' Motion to Stay at 2 (Jan. 18, 2017). "Delaying this proceeding for any amount of time due to the presidential transition is unwarranted, much less doing so for an entire year," the Agency adds. *Id.* "Staying this proceeding for one year would significantly delay its resolution without providing any concrete benefit. Transition-related impacts may be addressed if they occur, when they occur." *Id.*

Whether to stay proceedings "is a matter of discretion for the presiding judge." *Thomas Caracio, et al.*, EPA Docket No. CAA-03-2010-0408, 2011 EPA ALJ LEXIS 10, at \*2 (ALJ, June 23, 2011) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936)). Under the Consolidated Rules of Practice, the presiding judge "shall . . . avoid delay" and may take measures necessary "for the efficient, fair and impartial adjudication of issues." 40 C.F.R. § 22.4(c). In deciding whether to stay a proceeding, EPA administrative law judges have considered factors such as: whether the stay will serve the interests of judicial economy; result in unreasonable or unnecessary delay or eliminate unnecessary expense and effort; the extent, if any, of hardship resulting from the stay and adverse effect on the judge's docket; and the likelihood of records relating to the case being preserved and of witnesses being available at the time of any hearing. *Caracio*, 2011 EPA ALJ LEXIS at \*2-3 (citing *Unitex Chem. Corp.*, EPA Docket No. TSCA-92-H-08, 1993 EPA ALJ LEXIS 146 at \*3 (ALJ, March 18, 1993) (granting a stay while waiting for D.C. Circuit decision that would affect most or all claims in the administrative proceeding)).

Respondents have not presented a compelling reason to stay this case. It is unknown what specific policies or legislation the incoming presidential administration will pursue. To suggest incoming Agency leadership will alter enforcement of the Clean Air Act in a way that has any bearing at all on this case is pure speculation. Respondents stand accused of violations that have already occurred; it is not a question of whether the Agency should enforce the law against future misconduct. And should some change be made that actually has some application to this case, this Tribunal is perfectly capable of dealing with it at the time it happens. Additionally, a stay of proceedings does not serve the interests of judicial economy; it only causes unreasonable and unnecessary delay by causing this case to occupy space on this Tribunal's docket while inhibiting progress toward resolution of the parties' dispute. A year's stay also increases the likelihood that evidence will disappear in the intervening period or witnesses become unavailable with the passage of time.

Thus, for the foregoing reasons, Respondents' Motion is **DENIED**.

**SO ORDERED.**



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Susan L. Biro  
Chief Administrative Law Judge

Dated: January 27, 2017  
Washington, D.C.

In the Matter of *Taotao USA, Inc., Taotao Group Co., Ltd., and Jinyun County Xiangyuan Industry Co., Ltd.*, Respondents. Docket No. CAA-HQ-2015-8065

**CERTIFICATE OF SERVICE**

I certify that the foregoing **Order on Respondents' Motion to Stay Proceeding**, dated January 27, 2017, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.

  
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Dated: January 27, 2017  
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