

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY



BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
ARK FISHERIES, INC.,) DOCKET NO. CWA-10-2010-0239
and LYNN BABINGTON,)
)
RESPONDENTS)
_____)

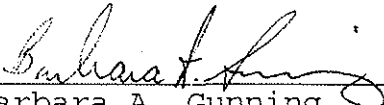
ORDER GRANTING REQUEST FOR EXTENSION
OF PREHEARING EXCHANGE SCHEDULE

On November 30, 2010, the undersigned issued a Prehearing Order ("PHO") setting forth certain deadlines for the Prehearing Exchange ("PHE") pursuant to Section 22.19(a) of the Rules of Practice, 40 C.F.R. § 22.19(a). Under the PHO, Complainant's initial PHE was due on February 18, 2011, a copy of which was received by this Tribunal on March 25, 2011, after complications with the mailing system delayed the initial copy. Respondents' PHE was due on March 18, 2011, but was not received. Based on representations by Complainant's counsel that the parties had reached an agreement as of March 25, 2011, some additional time was given for Respondents to execute the Consent Agreement and Final Order ("CAFO") or to file its PHE.

On April 13, 2011, Respondents submitted a letter request for extension ("Request"), seeking another 45 days to file the PHE because the "draft CAFO from EPA created some questions and concerns" for Respondents. Request at 1. On April 13, 2011, in a conversation with the undersigned's staff attorney, Complainant stated that it did not object to the Request.

Given that the parties again represent that they have reached a settlement, good cause is shown for some additional time to execute the CAFO. However, given that this sequence of events has previously occurred without final resolution, I find that 45 days is excessive. The parties are hereby given 30 days

to file a fully executed CAFO. If the CAFO is not received within such time, Respondents' PHE shall be due on or before May 13, 2011. Complainant's Rebuttal PHE will be due two weeks after the Regional Hearing Clerk receives and files the Respondents' PHE.



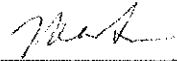
Barbara A. Gunning
Administrative Law Judge

Dated: April 13, 2011
Washington, DC

In the Matter of ARK Fisheries, Inc., and Lynn Babington, Respondents.
Docket No. CWA-10-2010-0239

CERTIFICATE OF SERVICE

I hereby certify that copies of this **Order Granting Request for Extension of Prehearing Exchange Schedule**, dated April 13, 2011, issued by Barbara Gunning, Administrative Law Judge, in CWA-10-2010-0239, were sent to the following parties on this 14th day of April 2011, in the manner indicated:



Mary Angeles
Legal Staff Assistant

Original and One Copy by Email and Pouch Mail to:

Carol Kennedy
Regional Hearing Clerk
U.S. EPA, Region X
1200 Sixth Avenue, ORC-158
Seattle, WA 98101
Email: Kennedy.Carol@epa.gov

Copy by Email and Pouch Mail to:

Mark Ryan, Esq.
Assistant Regional Counsel
U.S. EPA
1435 North Orchard Street
Boise, ID 83706
Email: Ryan.Mark@epa.gov

Copy by Email and Regular Mail to:

Lynn Babington, President
ARK Fisheries, Inc.
2825 South 1050 East
Hagerman, ID 83332
Email: arkfish@q.com

Dated: April 14, 2011
Washington, DC