

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219
BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
ADAMAS CONSTRUCTION AND) COMPLAINANT’S STATEMENT OF
DEVELOPMENT SERVICES, PLLC) UNAVAILABILITY FOR A HEARING
) IN RESPONSE TO ORDER ON
) COMPLAINANT’S MOTION FOR
) ACCELERATED DECISION AND
) RESPONDENTS’ REQUESTS FOR
) DISMISSAL AND ADDITIONAL
) DISCOVERY
)
AND)
)
NATHAN PIERCE,)
)
Respondents) Docket No. CWA-07-2019-0262
)
Proceedings under Section 309(g) of the)
Clean Water Act, 33 U.S.C. § 1319(g))

COMPLAINANT’S STATEMENT OF UNAVAILIBTY FOR A HEARING IN RESPONSE
TO ORDER ON COMPLAINANT’S MOTION FOR ACCELERATED DECISION AND
RESPONDENTS’ REQUESTS FOR DISMISSAL AND ADDITIONAL DISCOVERY

COMES NOW, the United States Environmental Protection Agency (“EPA” or “Complainant”), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1 to 22.45 and submits this Statement of Unavailability for a Hearing.

1. In its April 20, 2022, Order, the Court requested that by April 29, 2022, the parties provide statements that include periods of unavailability for a six-day hearing during July, August, September, or October 2022 and a preference for a

videoconference or in-person hearing.

2. On April 28, 2022, the Court granted Complainant's unopposed Motion for Extension of Time to submit its Statement of Availability to May 13, 2022.
3. Complainant states that it is unavailable for a hearing between July 1 and August 19, 2022.
4. Complainant requests an in-person hearing in Billings, Montana.
5. Complainant offers that it can present its case in two days or less.
6. Complainant has not received a response from three witnesses Complainant has attempted to contact. Complainant will submit a status update to the Court should new information regarding witness availability affect hearing availability.

RESPECTFULLY SUBMITTED this 13th day of May, 2022.

/s/ Chris Muehlberger

Chris Muehlberger, Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Email: muehlberger.christopher@epa.gov
Telephone: (913) 551-7623

CERTIFICATE OF SERVICE

I certify that the foregoing Complainant's Motion for Unavailability for Hearing in Response to Order on Complainant's Motion for Accelerated Decision and Respondents' Requests for Dismissal and Additional Discovery, Docket No. CWA-07-2019-0262, has been submitted electronically using the OALJ E-Filing System.

A copy was sent by email to:

Nathan Pierce, Owner, Adamas Construction and Development Services PLLC:

Nathan Pierce
Email: adamas.mt.406@gmail.com

Date: 5/13/2022

/s/ Chris Muehlberger

Chris Muehlberger
Assistant Regional Counsel
U.S. Environmental Protection Agency,
Region 7
11201 Renner Boulevard
Lenexa, Kansas 66209
(913) 551-7623 (Telephone)
(913) 551-9525 (Fax)
Email: muehlberger.christopher@epa.gov