



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:)
)
CBD American Shaman, LLC,) Docket No. FIFRA-07-2022-0142
)
Respondent.)

**ORDER ON COMPLAINANT’S SECOND MOTION FOR EXTENSION OF
PREHEARING DEADLINES**

This proceeding was initiated on April 10, 2023, with the filing of a Complaint by the Complainant, the Director of the Enforcement and Compliance Assurance Division of Region 7 of the U.S. Environmental Protection Agency (“Agency”) against Respondent CBD American Shaman, LLC, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136l. Respondent subsequently filed an Answer to the Complaint, in which it denied the alleged violations and requested a hearing. After I was designated to preside over the proceeding, I issued a Prehearing Order setting deadlines for a number of prehearing procedures, including the filing of a fully-executed Consent Agreement and Final Order (“CAFO”) if the parties achieved settlement of this matter, and a prehearing exchange of information by each party if settlement was not achieved in the meantime.

On June 20, 2023, Complainant filed a Motion for Extension of Time to File Prehearing Exchange and/or a Consent Agreement and Final Order, requesting a four-week extension of the CAFO deadline and of all prehearing exchange deadlines to give the parties time to pursue a settlement. I granted the requested extension on June 21, 2023. Order on Complainant’s Mot. for Extension of Prehearing Deadlines (June 21, 2023).

On July 17, 2023, Complainant filed a second Motion for Extension of Time to File Prehearing Exchange and/or a Consent Agreement and Final Order (“Second Motion for Extension”). Complainant’s Second Motion for Extension asserts that the parties have continued to make progress towards settlement and requests an additional four-week extension of the CAFO and prehearing exchange deadlines to allow the parties to work toward an agreement. Second Mot. for Extension ¶¶ 6, 7. Complainant represents that Respondent does not oppose the requested extension. Second Mot. for Extension ¶ 8.

This matter is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Rules of Practice”) set forth at 40 C.F.R. Part 22. The Rules of Practice provide that I “may grant an extension of time for filing any document: upon timely motion of a party to the

proceeding, for good cause shown, and after consideration of prejudice to other parties; or upon its own initiative.” 40 C.F.R. § 22.7(b).

Here, Complainant’s Second Motion for Extension was timely and shows good cause. As reflected in the Rules of Practice, Agency policy supports settlement of a proceeding without the necessity of a formal hearing. 40 C.F.R. § 22.18(b)(1). The interests of the parties and judicial economy continue to be well served by the parties resolving this matter informally and expeditiously. Accordingly, the Second Motion for Extension is hereby **GRANTED**. However, in the interest of ensuring prompt progress towards the resolution of this matter—whether negotiated or adjudicated—I will require Complainant to provide intermittent updates on the status of settlement negotiations.

Accordingly: A fully-executed CAFO shall be filed with the Regional Hearing Clerk on or before **August 25, 2023**, with a courtesy copy filed with the Headquarters Hearing Clerk. If the parties are unable to achieve settlement by that date, they shall file their prehearing exchanges pursuant to the following schedule:

- | | |
|---------------------------|--|
| August 25, 2023 | Complainant’s Initial Prehearing Exchange |
| September 15, 2023 | Respondent’s Prehearing Exchange |
| September 29, 2023 | Complainant’s Rebuttal Prehearing Exchange |

In addition, Complainant is directed to file Status Reports as to the status of settlement negotiations between the parties, *which shall not include any specific terms of settlement*, on or before **August 4, 2023**, and **August 18, 2023**.

SO ORDERED.



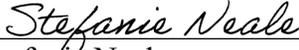
Susan L. Biro
Chief Administrative Law Judge

Dated: July 18, 2023
Washington, D.C.

In the Matter of *CBD American Shaman, LLC*, Respondent.
Docket No. FIFRA-07-2022-0142

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order on Complainant's Second Motion for Extension of Prehearing Deadlines**, dated July 18, 2023, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.



Stefanie Neale
Attorney Advisor

Copy by OALJ E-Filing System to:
U.S. Environmental Protection Agency
Office of Administrative Law Judges
<https://yosemite.epa.gov/OA/EAB/EAB-ALJ Upload.nsf>

Copy by Electronic Mail to:
Katherine Kacsur
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 7
11201 Renner Blvd.
Lenexa, KS 66219
Email: kacsur.katherine@epa.gov
For Complainant

Nicholas J. Porto
The Porto Law Firm
1616 West 45th Street
Kansas City, MO 64111
Email: nporto@portolaw.com
For Respondent

Dated: July 18, 2023
Washington, D.C.