

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CANDACE STUART-STEPHENS AND
JERROD STUART,

Priest River, Idaho

Respondents.

DOCKET NO. CWA-10-2024-0024

**JOINT MOTION TO STAY FURTHER
PROCEEDINGS**

1.1. The U.S. Environmental Protection Agency (“EPA” or “Complainant”) filed a Complaint on January 25, 2024, against Candace Stuart-Stephens and Jerrod Stuart (“Respondents”) alleging violations of the Clean Water Act. On March 7, 2024, Complainant and the Respondents (collectively, “the Parties”) filed a Joint Motion for Waiver of Service Requirements for Complaint within which the Respondents acknowledged receipt of the Complaint, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, and a copy of the EPA Region 10 Standing Order Regarding the Designation of EPA Region 10 Part 22 Electronic Filing System on February 25, 2024. As required by 40 C.F.R. § 22.45(b), Complainant provided public notice of the Complaint on March 6, 2024. Respondents filed an Answer to the Complaint on March 29, 2024. The EPA Region 10 Regional Judicial Officer granted the Joint Motion for Waiver of Service Requirements for Complaint on April 4, 2024. On April 11, 2024, this Tribunal issued a Prehearing Order that required, *inter alia*, that “if the case is settled, a fully executed Consent Agreement and Final Order . . . shall be filed . . . no later than May 24, 2024.”

1.2. The Parties have reached a settlement agreement-in-principle. The settlement documents, including the Consent Agreement and proposed Final Order, are currently in final review by the Parties before they can be fully executed.

1.3. Complainant received multiple comments on the public notice of the Complaint from persons who are not a party to this proceeding. Therefore, Complainant must “provide to each commenter, by certified mail, return receipt requested, but not to the Regional Hearing Clerk or Presiding Officer, a copy of any consent agreement between the parties and the proposed final order.” *See* 40 C.F.R. § 22.45(c)(4)(i). Thereafter, 40 C.F.R. § 22.45(c)(4)(ii) provides that “[w]ithin 30 days of receipt of the consent agreement and proposed final order a commenter may petition the Regional Administrator . . . to set aside the consent agreement and proposed final order on the basis that material evidence was not considered.”

1.4. Had Complainant not received comments on the public notice of the Complaint from persons who are not a party to this proceeding, the Parties could very likely comply with the April 11, 2024 Prehearing Order’s requirement to file a fully executed Consent Agreement and proposed Final Order by May 24, 2024. However, the Parties cannot concurrently comply with the requirements of 40 C.F.R. § 22.45(c)(4) and this Tribunal’s May 24, 2024 deadline for filing a fully executed Consent Agreement and Final Order.

1.5. The Parties anticipate being able to approve and fully execute a Consent Agreement and Final Order by May 17, 2024. From the date that each commenter receives “a copy of any consent agreement between the parties and the proposed final order” pursuant to 40 C.F.R. § 22.45(c)(4)(i), each commenter has 30 days to file a petition to set aside the Consent Agreement and proposed Final Order. *See* 40 C.F.R. § 22.45(c)(4)(ii). To account for inevitable delays associated with ensuring that each commenter has received copies of the fully executed Consent Agreement and proposed Final Order via certified mail and to ensure that each commenter is provided the fully required 30 days to file a petition following their receipt of the Consent Agreement and proposed Final Order, the Parties anticipate that the earliest the fully executed Consent Agreement and proposed Final Order can be filed while complying with 40 C.F.R. § 22.45(c)(4) is June 28, 2024.

1.6. If a commenter files a petition to set aside the Consent Agreement and proposed Final Order, the requirements of 40 C.F.R. §§ 22.45(c)(4)(iii) – (ix) would further delay Complainant’s ability to file the Consent Agreement and proposed Final Order.

1.7. Therefore, in the interest of judicial efficiency and to ensure Complainant’s compliance with 40 C.F.R. § 22.45(c)(4), the Parties respectfully request that this Tribunal stay further proceedings until at least June 28, 2024. Should Complainant receive a petition to set aside the Consent Agreement and proposed Final Order or if there are delays associated with Complainant’s efforts to confirm that each commenter has received a copy of the Consent Agreement and proposed Final Order via certified mail, Complainant will file a status report on or before June 28, 2024, summarizing those developments for this Tribunal.

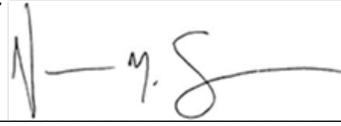
Respectfully submitted,

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION 10:

5/3/2024
DATE

Patrick B. Johnson
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
Alaska Operations Office
222 West 7th Avenue, No. 19
Anchorage, Alaska 99513
johnson.patrick@epa.gov

CANDACE STUART-STEPHENS AND JERROD
STUART:

A handwritten signature in black ink, appearing to read "N.M. Semanko", written over a horizontal line.

May 3, 2024
DATE

Norman M. Semanko
Attorney at Law
Parsons Behle & Latimer
800 West Main Street, Suite 1300
Boise, Idaho 83702
NSemanko@parsonsbehle.com

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	DOCKET NO.
)	CWA-10-2024-0024
CANDACE STUART-STEPHENS AND)	
JERROD STUART,)	CERTIFICATE OF SERVICE
)	
Priest River, Idaho,)	
)	
Respondents.)	

The undersigned certifies that the original JOINT MOTION TO STAY FURTHER PROCEEDINGS in the above-captioned action was filed with the OALJ E-Filing System to:

Mary Angeles, Headquarters Hearing Clerk
Office of Administrative Law Judges
U.S. Environmental Protection Agency
https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf

Further the undersigned certifies that a true and correct copy of the original JOINT MOTION TO STAY FURTHER PROCEEDINGS was served on Respondents Candace Stuart-Stephens and Jerrod Stuart via email to:

Norman M. Semanko
Garrett M. Kitamura
Lisa A. Kirschner
Parsons Behle & Latimer
NSemanko@parsonsbehle.com
gkitamura@parsonsbehle.com
LKirschner@parsonsbehle.com

Dated this 3rd day of May, 2024.

Patrick B. Johnson
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
Alaska Operations Office
222 West 7th Avenue, No. 19
Anchorage, Alaska 99513
Johnson.patrick@epa.gov