



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

In the Matter of: )  
)  
Kent Hoggan, Frostwood 6 LLC, and ) Docket No. CWA-08-2017-0026  
David Jacobsen, )  
)  
Respondents. )

**ORDER ON COMPLAINANT’S MOTION FOR STAY**

On July 5, 2018, I issued a Prehearing Order in this matter, setting forth certain prehearing filing deadlines. Among the prehearing filing deadlines established, the Prehearing Order directed Complainant to file its Initial Prehearing Exchange by August 17, 2018; Respondents to file their Prehearing Exchange by September 7, 2018; and Complainant to file its Rebuttal Prehearing Exchange by September 21, 2018. Consistent with the Prehearing Order, Complainant filed its Initial Prehearing Exchange on August 17, 2018. Respondents, however, did not timely file their Prehearing Exchange by September 7, 2018. On September 13, 2018, Complainant filed both a Motion for Default, requesting that Respondents be found in default for their failure to comply with the filing deadline for their Prehearing Exchange, and a Motion for Stay, requesting that the filing deadline for Complainant’s Rebuttal Prehearing Exchange be stayed until its Motion for Default is resolved.<sup>1</sup> In its Motion for Stay, Complainant argues that the requested stay of the deadline for its Rebuttal Prehearing Exchange is necessary to prevent it from wasting resources, given Respondents’ failure to timely file their Prehearing Exchange and the pendency of Complainant’s Motion for Default.

The rules that govern this proceeding, set forth at 40 C.F.R. Part 22, authorize the Presiding Officer to grant an extension of time for the filing of any document for good cause shown upon motion, after consideration of prejudice to the other parties. 40 C.F.R. § 22.7(b). In the present matter, Complainant has demonstrated good cause for the requested stay of the filing deadline for its Rebuttal Prehearing Exchange given Respondents’ failure to timely file their Prehearing Exchange, and the pendency of Complainant’s Motion for Default. Further, the circumstances do not support that granting the requested stay would cause prejudice to any party. Accordingly, Complainant’s Motion for Stay is **GRANTED**, and the filing deadline for Complainant’s Rebuttal Prehearing Exchange is hereby stayed until further order.

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<sup>1</sup> In its Motion for Stay, Complainant states that “it is in the interest of efficiency to stay Complainant’s Rebuttal Prehearing Exchange deadline until after the Motion for Stay is resolved.” However, Complainant subsequently makes clear that it is seeking a stay of the filing deadline for its Rebuttal Prehearing Exchange until resolution of its Motion for Default, rather than its Motion for Stay.

**SO ORDERED.**



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Susan L. Biro  
Chief Administrative Law Judge

Date: September 14, 2018  
Washington, D.C.

In the Matter of *Kent Hoggan, Frostwood 6 LLC, and David Jacobsen*, Respondents.  
Docket No. CWA-08-2017-0026

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Order on Complainant's Motion for Stay**, dated September 14, 2018, 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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Andrea Priest  
Attorney Advisor

Original and One Copy by Personal Delivery to:

Mary Angeles, Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
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Dated: September 14, 2018  
Washington, D.C.