



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
United States Department of the Army,) **Docket No. CERCLA-08-2020-0001**
)
Respondent.)

ORDER DISMISSING COMPLAINT

This action was initiated on June 12, 2020, by Complainant Kenneth C. Schefski, Regional Counsel, United States Environmental Protection Agency, Region 8 (“EPA” or “the Agency”), filing an Administrative Complaint against Respondent, United States Department of the Army. The Complaint alleges that Respondent violated the Comprehensive Environmental Response, Compensation, and Liability Act (“the Act”), codified as amended at 42 U.S.C. §§ 9601-9675, by not reimbursing Agency costs related to remediation of the Rocky Mountain Arsenal Superfund Site (“Site”) as required by the terms and conditions of an agreement entered into under the Act. Respondent filed an Answer to the Complaint on August 6, 2020, disputing the allegations.

On July 14, 2021, I issued an Order on Motions for Accelerated Decision that granted in part and denied in part Complainant’s Motion for Partial Accelerated Decision on Liability and that denied Respondent’s Motion for Accelerated Decision. The remaining issues related to assessment of an appropriate penalty were set to be scheduled for hearing. However, at the parties’ request, I have stayed this proceeding for more than three years while they worked through various intergovernmental processes to resolve the payment dispute underlying this action. *See, e.g.,* Eighth Order Staying Proceeding (Aug. 6, 2024).

On October 24, 2024, the Agency filed a Motion to Withdraw Complaint (“Motion”), stating that the parties had successfully modified an existing Consent Decree governing cleanup of the Site to provide for a one-time payment of more than \$10.2 million to the Agency on behalf of Respondent to “fully and finally resolve[] payment of any past or future EPA costs that may be incurred by EPA related to” the Site. Mot. at 2. *See also United States v. Shell Oil Co.*, No. 1:83-cv-02379 (D. Colo. Sep. 18, 2024) (order granting parties’ motion to modify Consent Decree). The Agency therefore moves to withdraw its Complaint as moot under 40 C.F.R. § 22.14(d) and asserts that Respondent does not oppose the Motion. Mot. at 2-3.

Pursuant to 40 C.F.R. § 22.14(d), “after the filing of an answer, the complainant may withdraw the complaint . . . without prejudice . . . upon motion granted by the Presiding Officer.” In this case, the parties have resolved their dispute through judicial amendment of the Consent Decree, mooting the Agency’s administrative action, and Respondent does not oppose

the Agency's request to withdraw the Complaint.

Accordingly, the Agency's Motion is **GRANTED**. The Agency's Complaint is withdrawn without prejudice, and this proceeding is hereby **DISMISSED**.

SO ORDERED.



Christine Donelian Coughlin
Administrative Law Judge

Dated: October 28, 2024
Washington, D.C.

In the Matter of *United States Department of the Army*, Respondent.
Docket No. CERCLA-08-2020-0001

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Dismissing Complaint**, dated October 28, 2024, and issued by Administrative Law Judge Christine Donelian Coughlin, was sent this day to the following parties in the manner indicated below.



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Dated: October 28, 2024
Washington, D.C.