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Michael P. Nash
Attorney at Law
214 Myers Road
Friday Harbor, WA 98250
Phone: 360-378-8557
E-mail: michaelnash@att.net

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of	:	
	:	
CHILKOOT LUMBER COMPANY, INC.	:	
AND	:	Docket No. TSCA-10-2010-0253
MR. L. EDWARD LAPEYRI	:	
Haines, Alaska	:	
<i>Respondents.</i>	:	
	:	
	:	

**RESPONDENTS' STATUS REPORT
AND MEMORANDUM IN SUPPORT OF MOTION TO CONTINUE STAY**

Pursuant to the Administrative Tribunal's order of 4 May 2011, the respondents, through council *pro tem*, submit this status report. Since the tribunal issued its order on 4 May 2011, the parties have diligently pursued settlement. It is likely that a settlement between Respondents and Region 10 will be reached based on ability to pay. Region 10 has communicated to Respondents its preliminary determination that Respondents qualify for an ability to pay settlement. However, due to the vacation schedule of Region 10's financial analyst and the need for management review and approval, it will not be able to provide a settlement offer based on ability to pay until the week of July 11th.

(1) Counsel of Record, Fred W. Triem, is partially recovered and should be prepared to take up work on this case again in 30 - 45 days, if settlement is not finalized in the interim: As noted in the tribunal's order of 4 May 2011, Mr. Triem suffered a heart attack in early April 2011. He was transported 700 miles west, to Anchorage, Alaska, the nearest community with a hospital that has a cardiac unit. He underwent open heart surgery at the end of April. Mr. Triem returned to Juneau in early June where he is undergoing cardiac therapy and has begun to take up his duties on a part-time basis. He is still with us, but needs a bit more time to recover fully.

(2) Since the tribunal issued its order granting stay on 4 May 2011, the parties have diligently pursued a settlement: The parties have taken the following steps:

- On 11 May 2011, the respondents had a settlement conference with Mr. Alexander Fidis, Esq. counsel for the agency, and his client. One week later, Respondents provided Region 10 with financial data related to their ability to pay the proposed penalty.
- On 23 May, the agency requested additional financial information. In the absence of a prepared 2010 tax return, Respondents completed an Individual Financial Form provided by the agency to provide the information necessary for the agency to complete its ability to pay analysis. That information was mailed on 27 May 2011.
- On 20 June 2011, the agency requested clarification of the financial material that was mailed on 27 May.
- On 21 June, respondent's attorney *pro tem* requested a phone conference with the EPA counsel and the EPA financial analyst, Elliott Rosenberg, in order to quickly

clear up any remaining questions about the respondents' finances.

- On 21 June Respondent's attorney *pro tem* submitted additional clarification.
- On 22 June a phone conference was held with counsel for the parties and the EPA financial analyst. Most questions were answered.
- On 23 June, the respondents submitted additional responses and clarifications to the questions raised during the previous two days.
- On 1 July 2011, Mr. Fidis reported that the agency had made a determination that the respondents lack the ability to pay the proposed penalty. He indicated that the agency would be able to provide a final ability to pay settlement offer the week of July 11th. Based on the agency's preliminary review of the financial information submitted by Respondents it appears that the offer will likely be within a range that Respondents could manage.

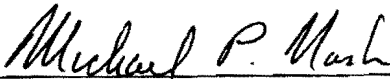
(3) *Serious settlement discussions are underway and terms may be agreed as early as next week—the agency has determined that the respondents lack the ability to pay the fine that was contemplated in the complaint:* The parties anticipate that they will reach an agreement following additional analysis by the EPA economist. Mr. Fidis has represented that the agency needs a few more days to reach a final calculation and make its formal offer of settlement.

(4) *Respondents request that the tribunal extend the current stay of proceedings to allow time for counsel of record to complete his recovery and for the parties to focus on completing negotiations concerning an ability to pay settlement:* Given the parties' recent, diligent efforts to reach a settlement and the progress that has

been made, the tribunal should entertain the Respondents' accompanying motion to extend the stay of proceedings that is currently in place. The respondents' *pro tem* attorney did not anticipate the length of time it would take the agency to perform its financial analysis and come to the point of making a final offer of settlement. Given the time necessary for the agency to complete its final determination, which requires management review and approval, any final settlement may take an additional two weeks to reach. The parties will also need some additional time to come to agreement on the terms of the settlement. Respondents request that the tribunal extend the current stay of proceedings to allow time for counsel of record to complete his recovery and for the parties to focus on completing negotiations concerning an ability to pay settlement.

The accompanying motion to extend the stay requests that the stay remain in place as long as the parties continue to diligently pursue settlement. In addition the accompanying motion requests the tribunal to extend the stay in any case to allow Mr. Fred Triem, counsel of record, additional time to recover from his heart attack.

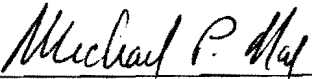
Respectfully submitted this 6th Day of July 2011 at Friday Harbor, Washington.



Michael P. Nash
Attorney *pro tem* for the Respondents

CERTIFICATE OF SERVICE

I certify that on 6 July 2011, I sent the original and one copy of the foregoing Status Report to the Regional Hearing Clerk at U.S. Environmental Protection Agency, 1200 Sixth Avenue, Suite 900, Mail Stop ORC-158, Seattle, Washington 98101, and that I sent copies to Hon. Susan L. Biro, Administrative Law Judge, EPA Office of Administrative Law Judges, 1200 Pennsylvania Avenue, NW, Mail Code 1900L, Washington, DC 20460-2001 and Alexander Fidis, Esq. Agency Counsel, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Suite 900, Mail Stop ORC-158, Seattle, Washington 98101 by placing a copy in the postal mail to them.



Michael P. Nash