



**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.)

SECOND ORDER STAYING PROCEEDING

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.

In August 2021, the parties declared that they had a settlement in principle, and they jointly moved to stay this proceeding while they pursued congressional authorization for Respondent to pay the Agency for past and future costs that are disputed in this matter. *See* Joint Motion for a Stay of the Proceeding (Aug. 16, 2021). I granted the requested six month stay. *See* Order Staying Proceeding (Aug. 18, 2021). After the stay expired, the parties notified this Tribunal that despite their efforts, Congress did not include legislative authorization for the payment in the Fiscal Year 2022 National Defense Authorization Act. *See* Joint Status Report Regarding Settlement (April 13, 2022).

The parties now seek an additional six month stay to continue their settlement efforts by different means. *See* Joint Motion for a Stay of the Proceeding (May 26, 2022) (“Motion”). Specifically, they plan to amend the existing consent decree that governs cleanup of the Rocky Mountain Arsenal to permit Respondent to pay the Agency’s costs. According to the parties, this will require coordination with and approval of the U.S. Department of Justice and the U.S. Department of the Treasury; coordination with and approval by other parties to the consent decree; moving the U.S. District Court for the District of Colorado to amend the consent decree; a 30-day public notice and comment period; and the district court’s final approval of the proposed amendment. Mot. at 2-3. The parties estimate this process can be completed within six months and ask for a stay of proceedings until November 28, 2022. Mot. at 3.

Among other powers and duties, I am authorized to “issue all necessary orders” and to “take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues arising” in this proceeding. 40 C.F.R. § 22.4(c)(2), (10). Here, I find it appropriate to stay this proceeding a second time while the parties work to achieve a settlement. Although I previously indicated that no further extensions would be permitted, I will grant the parties more time given the extensive steps that must be taken to execute their settlement.

Accordingly, the parties' Motion is **GRANTED**, and this proceeding is stayed until **November 28, 2022**. The parties shall file a joint status report on that date if the case has not yet settled.

The parties are further **ORDERED** to file monthly joint status reports regarding the progress of their settlement efforts on the following dates:

June 24, 2022

July 29, 2022

August 26, 2022

September 30, 2022

October 28, 2022

SO ORDERED.



Christine Donelian Coughlin
Administrative Law Judge

Dated: May 31, 2022
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 **Second Order Staying Proceeding**, dated May 31, 2022, 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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For Respondent

Dated: May 31, 2022
Washington, D.C.