

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)	
)	
United States Department of the Army,)	
)	
Respondent.)	Docket No.
)	CERCLA-08-2020-0001
Rocky Mountain Arsenal)	
Commerce City, CO,)	
)	
Facility.)	
)	

JOINT MOTION TO EXTEND THE STAY OF THE PROCEEDINGS

Pursuant to 40 C.F.R. § 22.16 and the Prehearing Order, the Respondent, United States Department of the Army, and the Complainant, the United States Environmental Protection Agency Region 8, jointly request an extension of the stay of the proceeding until June 30, 2023.

On August 13, 2021, the Parties in this matter sought an initial stay of the proceeding in order to seek Congressional authorization as a resolution to the underlying dispute in this case. When it became evident that Congressional authorization would not be forthcoming, the Parties came to an agreement in principle to pursue the execution of a Consent Decree Amendment (CDA) that resolves the matter at issue. Accordingly, on May 26, 2022, the Parties sought a second stay of this proceeding to effectuate the agreement in principle. On May 31, 2022, the Presiding Officer issued an Order granting a second stay, until November 28, 2022.

Although the second stay has expired, the Parties remain fully committed to the execution of the CDA. As reported in the Joint Status Reports filed during the second stay, the Parties successfully worked through several challenging issues with the assistance of the Department of

Justice (DOJ) and came to an agreement on the terms and language of the CDA. The CDA includes a settlement amount, the payment of which will resolve not only EPA past amounts, but also fully and finally resolve EPA's future costs at RMA. This is significant, as it will eliminate the possibility that there will be future Part 22 actions related to the issue of EPA Costs at the Rocky Mountain Arsenal Superfund Site.

While the Parties believe that the resolution of this matter is achievable, many of the remaining necessary steps involve discussions and engagement with non-Parties by DOJ on the Parties' behalf. The Parties are regularly communicating with DOJ to provide information, assistance, and support to ensure that the remaining steps are carried out as efficiently as possible. As stated in the November 28, 2022, Joint Status Report, the remaining steps include:

- 1). Discussions with and approval by United States Treasury of the terms and conditions of the proposed CDA;
- 2). Discussions with and the consent of the other parties to the Consent Decree, including Shell Oil Company, regarding the terms and conditions of the proposed CDA;
- 3). Gathering formal approvals of the delegated officials for the Parties on the final terms of the proposed CDA;
- 4). Lodging the proposed CDA with the United States District Court for the District of Colorado;
- 5). Holding a 30-day public comment period and filing a response to public comment with the District Court, if needed; and
- 6). Entry of the CDA, subject to public comment and District Court approval.

As of this Joint Motion, DOJ has engaged with the United States Treasury on behalf of the Parties. The Parties are anticipating that discussions with the United States Treasury and the other parties to the Consent Decree, including Shell Oil Company, may require several months to complete. The Parties expect that several additional months may be required for the civil judicial process, including lodging the proposed CDA with the District Court, allowing a public comment period, responding to any public comments, and entering the final CDA. Upon entry of the CDA, Complainant intends to withdraw the Complaint in this matter as moot.

Given these elements, the Parties believe that a further stay of this proceeding is appropriate to provide the necessary time to complete the remaining steps. In the interest of judicial economy and the conservation of scarce government resources, the Parties respectfully request an extension of the stay of this proceeding until June 30, 2023.

Dated: December 2, 2022

Respectfully submitted,

**CHRISTOPHE
R THOMPSON**

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CHRISTOPHER THOMPSON
Date: 2022.12.02 09:35:16
-07'00'

Christopher Thompson
Associate Regional Counsel for Enforcement
For
William Lindsey
Senior Assistant Regional Counsel
US EPA – Region 8 (8ORC-LE-C)
1595 Wynkoop Street
Denver, Colorado 80202

Andrew J. Corimski
Litigation Branch
Environmental Law Division
US Army Legal Services Agency
9275 Gunston Road, Fort Belvoir, VA 22060

CERTIFICATE OF SERVICE

It is hereby certified that on this 2nd Day of December 2022, the undersigned caused the foregoing Joint Motion to Extend the Stay of Proceedings under Docket No. CERCLA-08-2020-0001 to be sent to the following parties in the manner indicated below.

Dated: December 2, 2022

Andrew J. Corimski
Litigation Branch
Environmental Law Division,
US Army Legal Services Agency
9275 Gunston Road, Fort Belvoir, VA 22060
Phone: 571-234-3836
Email: andrew.j.corimski.civ@army.mil

Copy by OALJ E-Filing System to:

Christine Donelian Coughlin, Administrative Law Judge
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20004

Mary Angeles, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., NW
Washington, DC 20004

Copy by Electronic Mail to:

William Lindsey
Senior Assistant Regional Counsel
US EPA – Region 8 (8ORC-LE-C)
1595 Wynkoop Street
Denver, Colorado 80202
Email: lindsey.william@epa.gov
For Complainant

Mark Chalfant
US EPA – Region 8 (8ORC-LE-C)
1595 Wynkoop Street
Denver, Colorado 80202
Email: chalfant.mark@epa.gov
For Complainant