

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

_____)	
In re:)	
)	NPDES APPEAL No. 14-04
Lee Ranch Coal Company,)	
El Segundo Mine)	
)	
NPDES Permit No. NM0030996)	
_____)	

STIPULATION AND JOINT MOTION TO STAY PROCEEDINGS

Respectfully, Region 6 of the United States Environmental Protection Agency (“Region 6”) and Petitioner Lee Ranch Coal Company (“LRCC”) (collectively, the “Parties”) jointly move that the Environmental Appeals Board (“Board”) stay the above-captioned proceeding until February 27, 2015, to allow the Parties to pursue settlement negotiations, as further set forth below. The Parties further move that the Board order that the Parties be required to file settlement status reports with the Board by January 30, 2015 and February 27, 2015.

**I.
REQUESTED RELIEF AND GROUNDS FOR RELIEF**

On November 3, 2014, pursuant to 40 C.F.R. § 124.19(a), LRCC filed a petition for review of National Pollution Discharge Elimination System (“NPDES”) Permit No. NM0030996 (the “Permit”), which was issued by Region 6 on September 30, 2014 (the “Petition”). Since the filing of the Petition, counsel for Region 6 and LRCC have conferred and the Parties have agreed to enter into settlement negotiations with regard to the two permit conditions at issue in the Petition: (1) the total dissolved solids effluent limitation, as set forth in Part I.A.5 of the Permit,

and (2) the sediment control plan under the Western Alkaline Coal Mining Rule, as set forth in Part I.A.6 of the Permit (collectively, the “Contested Conditions”). In accordance with 40 C.F.R. § 124.16, the Parties further agree and hereby stipulate that the Contested Conditions will be stayed. Any conditions of LRCC’s prior permit that correspond to the stayed Contested Conditions will remain in place until the Petition is resolved.

The resolution of the Petition through settlement would conserve resources of the Board and the Parties, would promote judicial efficiency and economy, and promises to lead to an earlier resolution of the dispute.¹ Accordingly, a stay is requested in order to achieve these benefits and to allow the Parties to focus resources on attempting to settle the dispute. Given Thanksgiving and the approaching year-end holidays, the Parties believe that the stay should extend to February 27, 2015, to allow sufficient time for meaningful settlement negotiations. To keep the Board apprised of the status of negotiations, the Parties propose to file joint status reports with the Board on January 30, 2015 and February 27, 2015. If by February 27, 2015, the matter is not resolved, the Parties will inform the Board as to whether they request an extension of the stay, believing additional time may be constructive in completing a settlement, or ask that the Board set a date for Region 6 to file a response to the Petition, a certified index of the administrative record, and the relevant portions of the administrative record.

¹ The Parties have received notice and are appreciative of the Board’s ADR program to assist the Parties in resolving their dispute, which was issued on November 14, 2014. Given the limited issues and number of parties, the Parties believe that direct settlement negotiations may potentially resolve this matter without the need to burden the Board with either formal proceedings or through its ADR program. Should party-to-party negotiations not prove fruitful, the Parties intend to reconsider the ADR program and, if agreed upon, would jointly move before the Board to request an opportunity to participate at such time.

II.
CONCLUSION

For the reasons set forth above, the Parties respectively request that the Board order:

- 1) A stay of the above-captioned proceeding until February 27, 2015, to allow the Parties to pursue settlement negotiations; and
- 2) The Parties to file a joint settlement status reports with the Board by January 30, 2015 and February 27, 2015.

Date: November 26, 2014

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Peter R. Duchesneau, hereby certify that on this 26th of November, 2014, I served a copy of the foregoing Stipulation and Joint Motion to Stay Proceedings on the parties identified below by U.S. mail.

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/s/ Peter Duchesneau
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