



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

In re:)	
)	
Wulf Cattle Depot)	NPDES Appeal No. 21-01
)	
NPDES Permit No. SD-0034606)	
)	
)	

ORDER GRANTING EXTENSION OF STAY

Pending before us is U.S. Environmental Protection Agency Region 8’s unopposed motion for a further stay of these proceedings “for an additional 30 days to allow Region 8 to conclude its ongoing government-to-government consultation with the Standing Rock Sioux Tribe (the “Tribe”) concerning this matter.” Status Report and Unopposed Motion for Further Stay of Proceedings 1 (May 17, 2021) (“Unopposed Motion”). On March 24, 2021, we stayed this proceeding to give the parties to this permit appeal and the Standing Rock Sioux Tribe time to discuss the possibility of amicably resolving this matter. Order Staying Proceedings for Sixty Days (Mar. 24, 2021). The Region reports that over the last two months it has held several discussions with Petitioner Wulf Cattle Depot and its counsel, formally consulted with the Standing Rock Sioux Tribe on two occasions, and developed draft permit conditions that may resolve this matter. However, the Region states that Tribal leaders have indicated that they would like to meet with the full Tribal Council to further consider the proposed permit conditions.


The Region asserts that an additional thirty-day stay until June 24, 2021, will provide the Region time “to provide the Board with a final assessment as to the likelihood of resolution and a recommendation as to further proceedings.” Unopposed Motion at 3. The Region proposes to submit a status report containing its final assessment and recommendation to the Board on the same day that this extension of the stay would end. According to the Region, Petitioner Wulf Cattle Depot does not oppose the extension of the stay.

Accordingly, based on the representations in the Region’s motion, the Board **GRANTS** the motion and this matter is now stayed until **Thursday, July 1, 2021**. On or before **Thursday, June 24, 2021**, the Region shall file a status report addressing the status of its discussions with Wulf Cattle Depot and the Standing Rock Sioux Tribe, proposing (if appropriate) a briefing schedule, and to the extent that the parties seek a stay of proceedings beyond July 1, 2021, a motion requesting a further stay. The motion must specify the length of, and explain the basis for, such a further stay. *See* 40 C.F.R. § 124.19(o).

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: May 19, 2021

By: 
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **ORDER GRANTING EXTENSION OF STAY** in the matter of *Wulf Cattle Depot*, NPDES Appeal No. 21-01, were sent to the following persons by electronic mail:

For Petitioner

Scott G. Knudson
Andrew S. Dossdall
Taft Stettinius & Hollister LLP
2200 IDS Center
80 South Eight Street
Minneapolis, MN 55402
sknudson@taftlaw.com
adosdall@taftlaw.com

For Region 8

Everett Volk
Office of Regional Counsel
Mail Code 8ORC-LC-M
1595 Wynkoop Street
Denver, Colorado 80202
volk.everett@epa.gov

Alec Mullee
OGC-Water Law Office
1200 Pennsylvania Ave. NW
MC-2355A
Washington, DC 20460
mullee.alec@epa.gov

Dated: May 19, 2021

Emilio Cortes

Emilio Cortes
Clerk of the Board