

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
ENVIRONMENTAL APPEALS BOARD

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In Re: Ocean Era, Inc., Permit Applicant )  
Permitted Facility: Velella Epsilon Facility ) NPDES Appeal No. 20-08  
NPDES Permit No. FLOA00001 )  
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**Motion for Stay of Proceedings**

On February 17, 2021, the Environmental Appeals Board’s (the Board) issued an Order Requiring Status Report (Order). The Order notes that the permitted facility is novel, and that the permit appears to present “issues of national significance concerning the application of the CWA, NEPA, ESA and the MMPA to offshore aquaculture facilities.” The Order further states that the petition raises several issues of first impression for the Board, and cites to the Biden Administration’s Executive Order requiring review of past actions. *See* Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, Exec. Order No. 13,990, 86 Fed. Reg. 7037, 7037 (Jan. 25, 2021) (Executive Order). Based on these circumstances, the Order directs EPA Region 4 to prepare and file a Status Report, reflecting consultation with the Office of General Counsel and the Office of Water (including incoming Agency officials as appropriate), to provide the Agency with an opportunity to review this first-of-its-kind permit in light of the above-referenced Executive Order and ensure that the Region’s positions in this proceeding reflect the Agency’s coordinated views. The Order further directs that the Region shall file a status report no later than March 31, 2021, informing the Board whether the Board should proceed with deliberations on this matter, including whether to set this matter for oral argument.

The Environmental Protection Agency, Region 4 (the Region), after consultation with the Office of General Counsel and the Office of Water, files this Motion for Stay of Proceedings, seeking a 60-day stay of proceedings. The proposed stay will extend by sixty (60) days the deadline for filing a Status Report. In support of its Motion for Stay of Proceedings, the Region states that, due to the number of matters on which the new Administration is being briefed, the Region is not able to fully and adequately brief new Administration officials so that they can make an informed decision prior to the deadline specified in the Order. The requested stay will allow the Agency to take actions in this case in a manner consistent with the policies and directions in the Board's Order and in the Agency's Executive Order. *Cf. In re Granite Shore Power Merrimack LLC*, NPDES Appeal Nos. 20-05 and 20-06 (Order Granting Region 1's Motion for Continuance of Oral Argument Date and Abeyance) (Feb. 9, 2021) (granting, among other things, a 60-day abeyance to allow for consultation with EPA leadership in new Administration in light of Executive Order 13,990). Accordingly, the Region requests a 60-day stay so that the due date for the Status Report will be Monday May 31. (The 60<sup>th</sup> day, May 30, would fall on a Sunday).

I am authorized to report that the Petitioner does not object to the granting of this Motion.

For the foregoing reasons, the Region respectfully requests that this Motion for Stay of Proceedings be granted.

Respectfully submitted.

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Dated: March 22, 2021

## CERTIFICATE OF SERVICE

I, Paul Schwartz, hereby certify that on March 22, 2021, I caused to be served a true and correct copy of the foregoing Motion for Stay of Proceedings, via the EAB's electronic filing system, and by sending a true and correct copy, via e-mail, to the following:

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Dated: March 22, 2021

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