



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

May 26, 2009

By Federal Express and Electronic Submission

U.S. Environmental Protection Agency
Eurika Durr, Clerk of the Board
Environmental Appeals Board
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Re: *In re: ExxonMobil Oil Corporation*, NPDES Permit No. MA0000833, Appeal
No. NPDES 08-23

Dear Ms. Durr:

Please find enclosed for docketing an originally executed Third Joint Motion for Stay of Proceedings and Request for Status Conference in connection with the above-referenced permit appeal.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Samir Bukhari", written over a horizontal line.

Samir Bukhari
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA - Region 1
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cc: Recipients Listed on Certificate of Service

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

_____)
In the Matter of:)

ExxonMobil Oil Corporation)

NPDES Permit No. MA0000833)
_____)

NPDES Appeal No. 08-23

**THIRD JOINT MOTION FOR STAY OF PROCEEDINGS AND REQUEST FOR
STATUS CONFERENCE**

Region 1 of the United States Environmental Protection Agency (“Region”) and the ExxonMobil Oil Corporation (“ExxonMobil”) respectfully request that the U.S. EPA Environmental Appeals Board (“Board”) rescind the June 10, 2009, deadline for filing the Region’s response to ExxonMobil’s pending petition for review and stay the proceedings to allow the parties to conclude settlement negotiations. The parties also request a status conference to allow the parties to update the Board on the progress of settlement discussions and to recommend a specific course of action to the Board.

BACKGROUND

The Region reissued NPDES Permit No. MA0000833 to ExxonMobil on September 29, 2008. On October 28, 2008, ExxonMobil timely filed a petition for review by the Board contesting certain conditions of the permit. By letter dated October 28, 2008, the Board directed the Region to prepare a response that addresses ExxonMobil’s contentions and whether

ExxonMobil has satisfied the requirements for obtaining review. On November 6, 2008, the Region and ExxonMobil filed a joint motion requesting a stay of the proceedings to allow the parties to undertake settlement negotiations. In its November 10, 2008, Order Staying Proceedings on Petition for Review, the Board granted the Joint Motion, and ordered the Region to file its response to ExxonMobil's petition by February 10, 2009.

By joint motion filed with the Board on January 30, 2009, the parties requested an additional stay of proceedings to continue settlement discussions. *See* Second Joint Motion for Stay of Proceedings ("Second Stay Motion"). The parties reported that they had determined to pursue a "new and different permitting scheme to separately address dry weather and wet weather flows" in order to resolve the appeal. *Id.* at 2. The parties indicated that due to the complexity of the site, and the necessary redesign of the effluent treatment system to implement the new permitting approach, it would take approximately six to eight weeks to develop the additional information determined by the Region as necessary to write the new draft permit modification. *Id.* The Region stated that it had nonetheless initiated drafting the shell of a permit modification, which it intended to circulate for discussion purposes pending receipt of the requested information. The Board granted the Second Stay Motion and informed the parties that if they requested an additional stay, the Board would convene a status conference. *See* Second Order Staying Proceedings (February 2, 2009).

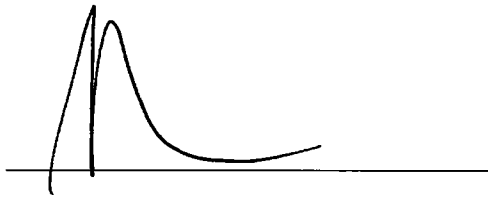
GROUNDS

Since last moving for a stay of proceedings, the parties have made continued progress toward settlement and believe a negotiated resolution is both desirable and likely. On March 20, 2009, ExxonMobil provided the technical information requested by the Region. Subsequently,

on April 23, 2009, the Region circulated a draft permit modification for review and comment having determined that it made more sense for the parties to focus their attention on reviewing a more developed draft that reflected the information requested by the Region. The parties agreed that ExxonMobil would provide the Region with a redlined response to the Region's version of the draft modification by May 21, 2009, which it has done, and that the parties would convene a meeting at the Region's Boston offices on May 28, 2009. The parties have identified a discrete set of issues that will require further discussion and compromise, as presaged by the parties' representation in its last stay motion that there remained "the possibility that implementing the parties' conceptual agreement will engender unforeseen technical questions or concerns that will require time and resources to resolve." *See* Prior Stay Motion at 2. With this said, the parties do not at this time perceive any bar to resolving these issues in a mutually acceptable and expeditious fashion. To facilitate resolution of issues, the parties agreed that the meeting should include a full complement of legal and program personnel from the Region and from ExxonMobil, which is sending representatives from the Everett Terminal and from the company's headquarters in Houston.

REQUESTED RELIEF

Accordingly, for the reasons set forth above, the parties jointly request that the Board rescind the June 10, 2009, deadline for the Region's response to ExxonMobil's petition and stay this matter. The parties further request that the Board schedule a status conference in early June, by which time the parties will have conducted their in-person negotiations and will be in a position to make a fully informed recommendation with respect to the required length for any additional stay.




**U.S. Environmental Protection Agency,
Region 1**

By its counsel,

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May 26, 2009

Respectfully submitted,

 FOR

ExxonMobil Oil Corporation

By its counsel,

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May 26, 2009

CERTIFICATE OF SERVICE

I, Samir Bukhari, hereby certify that on May 26, 2009, I served a true copy of the Third Joint Motion for Stay of Proceedings and Request for Status Conference on the following parties in the manner indicated:

Via Electronic Filing and Federal Express

U.S. Environmental Protection Agency
Eurika Durr, Clerk of the Board
Environmental Appeals Board
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Via Electronic Mail and First Class U.S. Mail

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