

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

In the Matter of:	)	
	)	
Novartis Pharmaceuticals Corporation	)	
	)	
Permittee	)	Appeal No.: RCRA 20-01
	)	
Final RCRA Permit	)	
EPA Identification No. NJD002147023	)	
	)	

**MOTION FOR STAY OF APPEAL**

Pursuant to 40 C.F.R. Section 124.19(f), and for the reasons set forth below, the United States Environmental Protection Agency, Region 2 (hereinafter “EPA”) respectfully moves for a Stay of the present appeal for a period of thirty (30) days to allow the parties to conclude settlement discussions.

**I. BACKGROUND**

1. On September 12, 2019, EPA issued a draft RCRA HSWA Permit (“draft Permit”) renewal to Novartis Pharmaceuticals Corporation (“Novartis”) for operations at its East Hanover, New Jersey facility. The draft Permit provided an opportunity for 45 days of public comment. A public meeting was held on October 7, 2019. Novartis was the only entity to attend the public meeting and it was the only entity to provide public comments. EPA responded to the public comments and issued the final RCRA HSWA Permit (“final Permit” or “Permit”) renewal to Novartis on July 15, 2020. The effective and expiration dates of the EPA’s final Permit are August 15, 2020 and August 14, 2030, respectively.
2. On August 14, 2020, prior to the effective date, Environmental Resources Management Inc. (ERM), on behalf of Novartis, filed a petition letter, dated August 13, 2020 (hereinafter “the

Petition”) to the Environmental Appeals Board (EAB) seeking a review of the Permit. The Petition did not seek review of the final remedies for corrective action, but only of six relatively minor technical issues that would require minor modifications to the text of the Permit.

3. On September 16, 2020, the clerk of the EAB contacted an EPA technical staff member and the undersigned EPA attorney to inquire as to the status of EPA’s response to the Petition. At that time, the undersigned attorney informed the EAB clerk by phone, followed by email notification on same date, that EPA was unaware that a Petition had been filed, as none of the EPA Region 2 personnel copied on the Petition appeared to have received it. Moreover, no certificate of service accompanied the Petition which was electronically filed with the EAB. Consequently, by Order of September 17, 2020, the EAB allowed EPA until Friday October 30, 2020 to file a response to the Petition.

## **II. GROUNDS FOR REQUESTED STAY**

4. As a result of EPA’s consideration of positions asserted in the Petition, EPA has determined that revision of the petitioned Permit provisions consistent with the Petition (with one exception to which Novartis has consented) is appropriate.
5. On October 15, 2020, EPA and representatives of ERM and Novartis held a conference call to discuss the Petition. At that time, the parties reached a tentative agreement in principle, subject to written memorialization and review and ratification by the parties, on revisions to the language of the Permit in order to address the technical issues raised in the Petition.
6. Accordingly, Region 2 requests a Stay of the Permit appeal for thirty (30) days so that EPA can develop proposed revisions to the Permit that reflect the parties’ settlement negotiation. The parties expect that these revisions to the Permit will resolve the technical issues raised in the

Petition. Once the final language changes are agreed to by the parties, EPA anticipates filing with the EAB a second motion for voluntary remand and, if granted, for voluntary dismissal of the Petition without prejudice. A stay is therefore in the best interests of administrative efficiency as it will allow for the resolution of this appeal.

7. Per 40 C.F.R. Section 124.9(f)(2), counsel for EPA has conferred with representatives of Novartis and its technical consultant, ERM, and Novartis has advised that it supports the request being made in this motion.
8. The undersigned counsel for EPA hereby certifies that this motion complies with the word limit of 40 CFR Section 124.19(f)(5) because this motion contains 865 words.

Dates: October 20, 2020

Respectfully submitted,



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Attorney for U.S. Environmental Protection Agency

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Motion for Stay of Appeal in the matter of Novartis Pharmaceuticals Corporation, RCRA Appeal No. 20-01, were sent to the following persons in the manner indicated.

**By Electronic Email**

**FOR ERM**

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*EPA Environmental Appeals Board E-filing System*

Dates: October 20, 2020

Respectfully submitted,



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