



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ADMINISTRATIVE LAW JUDGES MAIL CODE 1900L 1200 PENNSYLVANIA AVENUE, NW WASHINGTON, DC 20460-2001

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ADMIN. APPEALS BOARD

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**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ENVIRONMENTAL APPEALS BOARD**

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ENVIRONMENTAL APPEALS BOARD

IN THE MATTER OF:

U.S. Colloidal Site

**Walton CWCA Golden West 70 LLC,
Petitioner**

**Petition for Reimbursement Under Section
106(b)(2) of the Comprehensive
Environmental Response, Compensation,
and Liability Act, 42 U.S.C. § 9606(b)(2)**

**JOINT STATEMENT OF
STATUS AND MOTION TO EXTEND
STAY WITH CONTINGENT
DISMISSAL**

EAB Docket No. CERCLA 106(b) 08-03

By order dated February 6, 2009, the United States Environmental Protection Agency, Environmental Appeals Board ("EAB") issued a stay of proceedings in the above captioned matter, and required a report on the status of settlement negotiations with a discussion of whether it is appropriate to continue the stay, dismiss the petition, or establish a schedule for the United States Environmental Protection Agency, Region IX ("Respondent," or "EPA") to provide a substantive response to the Petition for Reimbursement Under Section 106(b)(2) of the Comprehensive Environmental Response, Compensation and Liability Act (the "Petition for Reimbursement") filed by Walton CWCA Golden West 70 LLC ("Petitioner").

The Parties have reached terms on a settlement and, as required by Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9622(i), published in the Federal Register notice of the settlement and a thirty day public comment period, which will expire on April 30, 2009. Section 122(i)(3) of CERCLA provides that EPA may withdraw from or withhold consent to the settlement if public comments disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper or inadequate. Although the public comment period is not yet closed, EPA has received no negative comments on the proposed settlement to date.

1 Based on the status of the proposed settlement, the Parties jointly request a continuation
2 of the stay until May 31, 2009, after which the EAB may dismiss the Petition for Reimbursement
3 with prejudice unless either Petitioner or Respondent informs the EAB that, based on comments
4 received in the public comment process, EPA has withdrawn or withheld its consent to the
5 proposed settlement. If the EAB receives such information, the Parties will provide a report on
6 the status of settlement negotiations on or before May 31, 2009. Barring such information, this
7 matter will be resolved.

8 Accordingly, the Parties hereby jointly move the EAB to order the following:

9 1. A Stay of proceedings on the Petition for Reimbursement until May 31, 2009, or
10 further on notice from the EAB.

11 2. That the EAB may dismiss the Petition for Reimbursement with prejudice unless,
12 prior to May 31, 2009, either Petitioner or Respondent informs the EAB that, based on comments
13 received in the public comment process pursuant to Section 122(i) of CERCLA, EPA has
14 withdrawn or withheld its consent to the proposed settlement. In such case, the Parties will
15 provide a report on the status of settlement negotiations on or before May 31, 2009, which will
16 include a discussion of whether it is appropriate to continue the stay for further negotiations,
17 dismiss the petition, or establish a schedule for the EPA to provide a substantive response to the
18 Petition for Reimbursement filed by Petitioner.

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20 So Stipulated for the Petitioner:

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22 
23 ROGER J. HOLT
24 Greenberg Glusker Fields
Claman & Machtinger LLP

25 [Signatures for Respondent on following page]
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27

28 Joint Statement of Status

1 So Stipulated for the Respondent:

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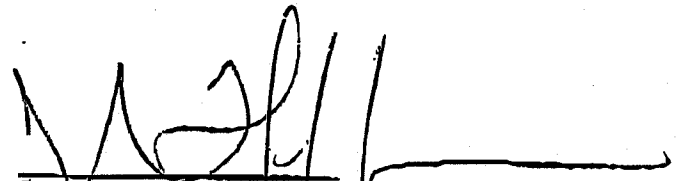
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28 Joint Statement of Status



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