

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



In re:

Barnhardt Manufacturing Co.

NPDES Permit No. MA0003697

NPDES Appeal No. 17-07

ORDER CONTINUING STAY OF PROCEEDINGS

On November 3, 2017, the Environmental Appeals Board ("Board") issued an order staying proceedings in this case until February 1, 2018, to allow the parties, U.S. EPA Region 1 ("Region") and Barnhardt Manufacturing Company ("Permittee"), to undertake settlement negotiations. The Board held in abeyance the deadlines for the Region to file its response to the Permittee's Petition for Review and certified index to the administrative record, and deferred the parties' deadline for responding to the Board's offer of alternative dispute resolution. The Board's order directed the parties to file status reports on December 11, 2017, and January 8, 2018, and provided that the Board would review each status report and assess whether the stay continues to be appropriate.

On December 11, the parties filed their first joint status report, representing that they have reached an agreement in principle; that the Region has developed a draft permit modification and statement of basis, which the Permittee is reviewing; that the Permittee expects to inform the Region whether the permit modification is acceptable by December 15, 2017; that once agreement is reached on the terms of the draft modification the parties will jointly move to dismiss the Petition for Review; and that the parties believe agreement over the terms of a final

settlement will likely be reached within the next thirty days. The parties request that this case continue to be stayed in accordance with the Board's November 3, 2017 order.

Based on the parties' representations, the Board concludes that a stay of this case to February 1, 2018, continues to be appropriate. If a motion to dismiss has not yet been filed, the parties shall file the next status report no later than **January 8, 2018**. The Board will review the status report, and assess whether the stay continues to be appropriate. If it appears that continuation of the stay may no longer be appropriate, the Board will ask the parties to file a supplemental status report to address that question. To the extent that the parties seek a further stay of proceedings beyond February 1, 2018, the parties must file a motion requesting a further stay no later than **January 25, 2018**. The motion must specify the length of, and explain the basis for, such a further stay.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: DEC 14 2017

By: Mary Beth Ward
Mary Beth Ward
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Continuing Stay of Proceedings* in the matter of Barnhardt Manufacturing Co., NPDES Appeal No. 17-07, were sent to the following persons in the manner indicated:

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Dated: DEC 14 2017


Annette Duncan
Administrative Specialist