

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL APPEALS BOARD

In re:

Invensys Systems, Inc.

NPDES Permit No. MA0004120

NPDES Appeal No. 15-10

Joint Status Report and
Fourth Joint Motion for Stay of Proceedings and Extension of Time

This matter was initiated on September 4, 2015, when Petitioner Invensys Systems, Inc. (Invensys), filed a Petition for Review (Petition) of NPDES Permit No. MA0004120, which was issued by the Environmental Protection Agency, Region 1 (EPA, or the Region) on July 17, 2015 (the Permit). Since the Petition was filed, the parties have filed a series of Joint Motions for Stay of Proceedings and Extension of Time to allow Invensys and EPA (the Parties) to pursue settlement negotiations in an attempt to resolve the issues raised in the Petition. Each of those Motions has been granted by the Environmental Appeals Board (the Board). The most recent Order issued by the Board in this matter was issued on January 11, 2016, and extended the deadline for EPA to file its response to the Petition and a certified index to the Administrative Record until April 4, 2016. The Board's Order of January 11, 2016, further directed the Parties to file a Status Report no later than March 4, 2016, to update the Board on the progress of the Parties' efforts to resolve this appeal, and further directed the Parties, in the event that the Parties request a further stay, to provide in the Status Report information as to the progress they have made since the last status report filed in January 2016, and information regarding the Parties'

plan and timeline for resolving any outstanding issues.

Pursuant to 40 C.F.R. 124.19(g), the Parties now file this Joint Status Report and Fourth Joint Motion for Stay of Proceedings and Extension of Time. Since the filing of the last Status Report, Invensys has provided comments to EPA on the draft Administrative Order on Consent that EPA had proposed as a basis for resolving this matter. While the Parties' are in substantial agreement regarding the actions to be undertaken by Invensys at the facility, Invensys proposed certain revisions in the Administrative Order on Consent which EPA is unwilling to make. EPA has responded to Invensys' proposal by providing to Invensys a revision to the Administrative Order on Consent that accepts certain changes proposed by Invensys but rejects other proposed changes. Invensys is now engaged in an internal review and consideration of EPA's most recent revision of the Administrative Order on Consent. The Parties expect that discussions between the Parties during the next thirty days will enable the Parties to determine whether an impasse exists that will render the Parties unable to finalize a settlement or whether these further discussions will enable the Parties to revise the Administrative Order on Consent in a manner that is acceptable to both Parties. The Parties both desire to settle this matter and will engage in good faith efforts to identify potential revisions to the Administrative Order on Consent that will address the concerns of both sides.

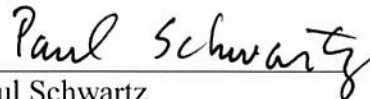
With respect to the Parties' plan and timeline for resolving any outstanding issues, the Parties state that Invensys expects to respond to EPA's most recent revision to the Administrative Order on Consent by March 4, 2016. To the extent that outstanding issues remain, the Parties will engage in further telephone negotiations and, potentially, further exchanges of proposed language revisions to the Administrative Order on Consent during the next thirty days in an attempt to resolve all outstanding issues. The Parties believe that the

additional thirty days of negotiations will enable the Parties to either inform the Board that a settlement has been reached or that the Parties remain at an impasse and will proceed with the filing by EPA of a Response to the Petition and certification of the Administrative Record Index.

To enable EPA to devote time and effort to continued settlement discussions with Invensys and to the development, consideration and vetting of potential revisions to the Administrative Order on Consent, while also working to finalize its response to the Petition and the Certified Administrative Record Index, the Parties request that the Board grant an additional thirty day Stay of Proceedings and Extension of Time.

For the foregoing reasons, the Parties respectfully request that this Fourth Joint Motion for Stay of Proceedings and Extension of Time be granted, and that EPA's deadline for filing a Response to the Petition and a Certified Administrative Record Index be extended by 30 additional days, until May 4, 2016. I am authorized by counsel for Petitioner to represent that Petitioner joins EPA in the submittal of this Joint Status Report and Fourth Motion for Stay of Proceedings and Extension of Time.

Respectfully submitted,



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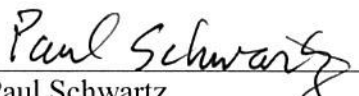
Dated: March 1, 2016

CERTIFICATE OF SERVICE

I, Paul Schwartz, hereby certify that on March 1, 2016, I caused to be served a true and correct copy of the foregoing Opposition to Motion for Extension of Time to File Petition for Review, via the EAB's electronic filing system, and by sending a true and correct copy, via UPS Next Day Air, and e-mail, to the following:

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Dated: March 1, 2016


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