



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
1 Congress Street, Suite 1100
BOSTON, MA 02114-2023

By Federal Express and Electronic Submission

January 30, 2009
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; Appeal Number NPDES 08-23**

Dear Ms. Durr:

In connection with the above-referenced permit appeal, please find enclosed for docketing an original of the parties' Second Joint Motion for Stay of Proceedings.

If you should have any questions, please feel free to contact me at 617-918-1038.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charlotte L. Withey".

Charlotte L. Withey
Office of Regional Counsel

cc: Dianne R. Philips, Holland & Knight LLP

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

In the Matter of:)))))
ExxonMobil Oil Corporation)))))
)))))

NPDES Appeal No. 08-23

SECOND JOINT MOTION FOR STAY OF PROCEEDINGS

Region 1 of the United States Environmental Protection Agency (“Region”) and the ExxonMobil Oil Corporation (“ExxonMobil”) request that the U.S. EPA Environmental Appeals Board rescind the February 10, 2009, deadline for filing the Region’s response to ExxonMobil’s pending petition for review and stay the proceedings until June 10, 2009, to allow the parties to continue settlement negotiations. As basis for this Motion, the parties submit the following grounds.

GROUND

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.

On November 19, 2008, representatives of ExxonMobil and the Region met to initiate settlement discussions. Based on the meeting and subsequent discussions between the parties, ExxonMobil submitted a written conceptual proposal to resolve the appeal through a permit modification on December 18, 2008, which proposal contemplated a new and different permitting scheme to separately address dry weather and wet weather flows. Upon consideration, the Region responded positively to ExxonMobil's proposal, and on January 6, 2009, requested certain additional information from ExxonMobil that the permit writer determined to be necessary to draft the permit modification. Because of the complexity of the site, and the redesign necessary of the effluent treatment system, ExxonMobil indicated that it would take approximately six to eight weeks to develop the additional information requested by the Region, which information requests were dependent upon, among other things, updated sampling data and advanced engineering requirements. The Region has subsequently initiated work on a new draft permit, which it intends to implement pursuant to its authority under 124.19(d), and expects to circulate a draft for discussion between the parties within the next month.

In light of the progress made thus far, the parties believe that a negotiated settlement of this appeal is likely. However, due to the site's considerable technical complexity, the unavoidable delay associated with the design and engineering work being undertaken by ExxonMobil for the modified effluent treatment system, and the possibility that implementing the parties' conceptual agreement will engender unforeseen technical questions or concerns that will require time and resources to resolve, the parties agree that a reasonable amount of additional time is needed to continue discussions and reach agreement over the terms and conditions of the new draft permit. Under these circumstances, an additional stay of proceedings

is necessary and would be in the interest of judicial and administrative economy. If a stay is not granted, the parties will be forced to divert their time and effort to the proceedings before this Board, when there is a substantial possibility that a negotiated settlement will obviate the need for such proceedings.

REQUESTED RELIEF

Accordingly, for the reasons set forth above, the parties jointly request that the Board rescind the February 10, 2009, deadline for the Region's response to ExxonMobil's petition and that the Board stay this matter for an additional four-month period, ending June 10, 2009, to allow sufficient time for settlement discussions. If, prior to June 10, either of the parties determines that settlement has become unlikely, that party will timely notify the Board and request additional relief as warranted.

Respectfully submitted,



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

By its counsel,

Charlotte L. Withey
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U.S. EPA-Region 1 (RAA)
One Congress Street, Suite 1100
Phone: (617) 918-1038
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January 30, 2009



for Dianne Philips

ExxonMobil Corporation

By its counsel,

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Boston, MA 02116
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January 30, 2009

In re: ExxonMobil Oil Corporation,
NPDES Appeal No. 08-23

CERTIFICATE OF SERVICE

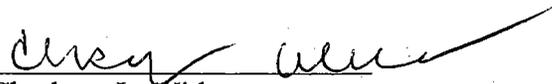
I, Charlotte L. Withey, hereby certify that on this 30th day of January, 2009, I served true copies of the foregoing Second Joint Motion for Stay of Proceedings on the following parties in the manner indicated:

Via 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

Via Electronic Mail

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