

## ENVIRONMENTAL APPEALS BOARD

Appeal No. NPDES 13-09

NPDES Permit No. WAS-026638

## JOINT MOTION FOR EXTENSION OF STAY OF PROCEEDINGS

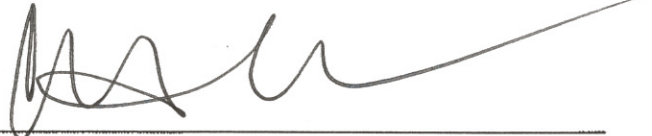
The United States Environmental Protection Agency (“EPA”) Region 10 (“Region 10”) and the United States Department of the Army (“Army”) jointly move for an extension of the current stay of the proceedings. On June 24, 2014, the Environmental Appeals Board (“EAB”) issued an Order Extending Stay of Proceedings which extended the stay of the above-captioned matter until October 30, 2014. The purpose of the stay was to allow the parties additional time to effectuate the settlement agreement that was reached in the matter.

In support of its motion, the parties state that, due to a necessary State of Washington proceeding, there is a delay in Region 10's ability to finalize the permit modification action. As a result, the parties have negotiated an amendment to the settlement agreement which requires Region 10 to issue a final permit modification by December 12, 2014. *See* Attachment A. Therefore, the parties request an extension of the current stay of the proceedings to December

17, 2014 which will provide the Army with time to file a motion to dismiss after Region 10 takes a final permit action on the permit modification.

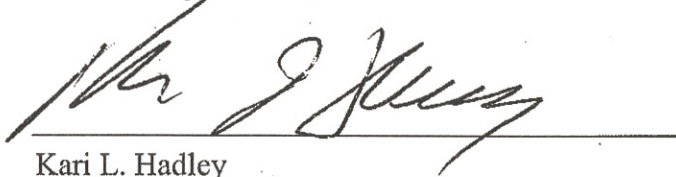
DATED: October 15, 2014

On behalf of Region 10:



Courtney Weber  
Assistant Regional Counsel  
EPA Region 10  
1200 Sixth Avenue, Suite 900, ORC-158  
Seattle, WA 98101  
Tel: 206-553-1477  
Fax: 206-553-0163  
Email: weber.courtney@epa.gov

On behalf of the Army:



Kari L. Hadley  
Department of the Army  
Environmental Litigation Center  
9275 Gunston Road, Suite 4301  
Fort Belvoir, VA 22060  
Tel: 703-693-0624  
Fax: 703-806-0900  
Email: kari.l.hadley.mil@mail.mil

**ATTACHMENT A**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
ENVIRONMENTAL APPEALS BOARD

\_\_\_\_\_) )  
)  
In the Matter of: )

) Appeal No. NPDES 13-09  
)

)  
JOINT BASE LEWIS-McCHORD )  
MUNICIPAL SEPARATE STORM )  
SEWER SYSTEM )

)  
NPDES Permit No. WAS-026638 )  
\_\_\_\_\_)

**SETTLEMENT AGREEMENT AMENDMENT**

WHEREAS, on June 6, 2014, the U.S. Environmental Protection Agency ("EPA") Region 10 ("Region") and the U.S. Department of the Army ("Petitioner") signed a settlement agreement that resolved a petition for review contesting provisions of a National Pollutant Discharge Elimination System ("NPDES") permit issued to Joint Base Lewis-McChord ("JBLM") for discharges from JBLM's municipal separate storm sewer system ("MS4"), Permit No. WAS-026638 ("Permit");

WHEREAS, Paragraph I.D. of the Settlement Agreement provided that "[w]ithin 120 days of the Effective Date of [the Agreement], the Region shall take final action on the draft permit modification, provided it has received a certification or waiver from the State of Washington pursuant to Section 401(a)(1) of the Clean Water Act.... If the Region is unable to

take final action...due to a delay in issuance of the Section 401 certification ..., the Region shall immediately notify Petitioner of the need to negotiate an extension....”

WHEREAS, the State of Washington was unable to provide the Section 401 certification for the permit modification within the 120-day deadline.

WHEREAS, Petitioner and the Region have agreed upon an extension of the deadline for completing the permit modification;

NOW, THEREFORE, THE PARTIES AGREE TO AMEND PARAGRAPH I.D. OF THE SETTLEMENT AGREEMENT AS FOLLOWS:

**I. SPECIFIC TERMS**

D. By December 12, 2014, the Region shall take final action on the draft permit modification unless unforeseen circumstances prevent the Region from taking such action. If such circumstances arise, the Region shall immediately notify Petitioner of the need to negotiate an extension to the deadline.

**FOR EPA:**

Dated: October 15, 2014




Daniel D. Opalski, Director  
Office of Water and Watersheds  
U.S. Environmental Protection Agency  
Region 10  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

*Counsel:*  
Courtney J. Weber  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 10  
1200 Sixth Avenue, Suite 900, ORC-158  
Seattle, WA 98101

**FOR PETITIONER:**

Dated: October 14, 2014

  
Gregory G. Woods  
Colonel, U.S. Army  
Chief, Environmental Law Division  
United States Army Legal Services Agency  
9275 Gunston Road, Suite 4325  
Fort Belvoir, VA 22060

*Counsel:*  
MAJ Kari L. Hadley  
Environmental Law Division  
United States Army Legal Services Agency  
9275 Gunston Road, Suite 4301  
Fort Belvoir, VA 22060



**CERTIFICATE OF SERVICE**

I certify that the foregoing "Joint Motion for Extension of Stay of Proceedings" was sent to the following persons, in the manner specified, on the date below:

By electronic filing to:

U.S. Environmental Protection Agency  
Clerk of the Environmental Appeals Board  
1341 G Street NW, Suite 600  
Washington, DC 20005

By electronic mail to:

Kari L. Hadley  
Department of the Army  
Environmental Litigation Center  
9275 Gunston Road, Suite 4301  
Fort Belvoir, VA 22060  
Email: [kari.l.hadley.mil@mail.mil](mailto:kari.l.hadley.mil@mail.mil)

Jeffrey S. Longworth  
Barnes & Thornburg LLP  
1717 Pennsylvania Avenue, NW, Suite 500  
Washington, DC 20006  
Email: [jlongworth@btlaw.com](mailto:jlongworth@btlaw.com)

Jan Hasselman  
Janette K. Brimmer  
Earthjustice  
705 Second Ave., Suite 203  
Seattle, WA 98104  
Email: [jhasselman@earthjustice.org](mailto:jhasselman@earthjustice.org)

Ronald L. Lavigne  
Christopher H. Reitz  
State of Washington, Department of Ecology  
P.O. Box 40117  
Olympia, WA 98504-0117  
Email: [ronaldl@atg.wa.gov](mailto:ronaldl@atg.wa.gov)  
[chrissr@atg.wa.gov](mailto:chrissr@atg.wa.gov)

DATED: October 15, 2014



---

Courtney Weber  
Assistant Regional Counsel  
U.S. EPA, Region 10