

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)	
)	
United States Department of the Army,)	
)	
Respondent.)	Docket No.
)	CERCLA-08-2020-0001
Rocky Mountain Arsenal)	
Commerce City, CO,)	
)	
Facility.)	
)	

JOINT MOTION TO EXTEND THE STAY OF THE PROCEEDINGS

Pursuant to 40 C.F.R. § 22.16 and the Prehearing Order, the Respondent, United States Department of the Army, and the Complainant, the United States Environmental Protection Agency Region 8, jointly request an extension of the stay of the proceeding until November 30, 2023.

On August 13, 2021, the Parties in this matter sought an initial stay of the proceeding in order to seek Congressional authorization as a resolution to the underlying dispute in this case. When it became evident that Congressional authorization would not be forthcoming, the Parties came to an agreement in principle to pursue the execution of a Consent Decree Amendment (CDA) that resolves the matter at issue. Accordingly, on May 26, 2022, the Parties sought a second stay of this proceeding to effectuate the agreement in principle. On May 31, 2022, the Presiding Officer issued an Order granting a second stay, until November 28, 2022. On December 2, 2022, the parties sought a third stay of this proceeding, which was granted by the Presiding Officer on December 5, 2022. The third stay expired on June 30, 2023.

Although the third stay has expired, the Parties remain fully committed to the execution of the CDA. As reported in the Joint Status Reports filed during the third stay, the Parties have made substantial progress in advancing the CDA. The parties to the original CD have all expressed support for moving forward with the CDA, and the CDA is now out for signature of the various agencies. The CDA is also working its way through the Department of Justice's internal approval process. The CDA includes a settlement amount, the payment of which will resolve not only EPA past amounts, but also fully and finally resolve EPA's future costs at RMA. This is significant, as it will eliminate the possibility that there will be future Part 22 actions related to the issue of EPA Costs at the Rocky Mountain Arsenal Superfund Site.

The Parties continue to believe that the resolution of this matter is achievable. That said, many of the remaining necessary steps involve discussions and engagement with non-Parties by DOJ on the Parties' behalf. The Parties are regularly communicating with DOJ to provide information, assistance, and support to ensure that the remaining steps are carried out as efficiently as possible. The remaining steps include:

- 1). Obtaining signature of the delegated officials for the Parties on the proposed CDA;
- 2). Formal approval of the CDA by the appropriate DOJ officials;
- 3). Lodging the proposed CDA with the United States District Court for the District of Colorado;
- 4). Holding a 30-day public comment period and filing a response to public comment with the District Court, if needed; and
- 5). Entry of the CDA, subject to public comment and District Court approval.

The Parties expect that five additional months may be required for the civil judicial process, including lodging the proposed CDA with the District Court, allowing a public comment period, responding to any public comments, and entering the final CDA. Upon entry of the CDA, Complainant intends to withdraw the Complaint in this matter as moot.

Given these elements, the Parties believe that a further stay of this proceeding is appropriate to provide the necessary time to complete the remaining steps. In the interest of judicial economy and the conservation of scarce government resources, the Parties respectfully request an extension of the stay of this proceeding until November 30, 2023.

Dated: July 7, 2023

Respectfully submitted,

**WILLIAM
LINDSEY** Digitally signed by
WILLIAM LINDSEY
Date: 2023.07.07
12:46:17 -06'00'

William Lindsey
Senior Assistant Regional Counsel
US EPA – Region 8 (8ORC-LE-C)
1595 Wynkoop Street
Denver, Colorado 80202

**CORIMSKI.ANDREW.JOHN.1
EW.JOHN.12980
80229** Digitally signed by
CORIMSKI.ANDREW.JOHN.1
298080229
Date: 2023.07.07 12:30:16
-04'00'

Andrew J. Corimski
Litigation Branch
Environmental Law Division
US Army Legal Services Agency
9275 Gunston Road, Fort Belvoir, VA 22060

CERTIFICATION

I certify that a copy of the foregoing Joint Motion to Extend the Stay of the Proceedings, Docket No. CERCLA-08-2020-0001 has been filed via the OALJ E-filing system constituting service on the Presiding Officer and sent via email to the following Counsel for Respondent:

Andrew J. Corimski
Litigation Branch
Environmental Law Division
US Army Legal Services Agency
9275 Gunnison Road, Fort Belvoir, VA 22060

WILLIAM Digitally signed by
LINDSEY WILLIAM LINDSEY
Date: 2023.07.07
12:52:00 -06'00'

William Lindsey, Senior Assistant Regional Counsel
CERCLA Enforcement Section
Office of Regional Counsel
USA EPA Region 8
1595 Wynkoop Street (MC 8ORC-C)
Denver, CO 80202
303-312-6282

Counsel for Complainant