

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LAKE CARRIERS' ASSOCIATION,)	
)	
)	
Petitioner,)	No. 09-1001
)	Consolidated with Nos. 09-1010,
LISA JACKSON, ADMINISTRATOR,)	1076, 1089, 1115, 1131, 1135
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY, and UNITED)	
STATES ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
)	
Respondents.)	

**JOINT STATUS REPORT AND JOINT MOTION TO CONTINUE
EXISTING STAY OF PROCEEDINGS**

Pursuant to Federal Rule of Appellate Procedure 27 and Circuit Rule 27, Respondents Lisa Jackson, Administrator of the United States Environmental Protection Agency (“EPA”), and EPA, and Petitioners in these consolidated and transferred cases – Lake Carriers’ Association (“Lake Carriers”); Natural Resources Defense Council, Inc.; Canadian Shipowners Association; American Waterways Operators; State of Michigan; and National Wildlife Federation *et al.* (“NWF”) – file this joint status report and jointly move for an order continuing the existing stay of proceedings in this case, including but not limited to all deadlines

for filing any initial submissions, until October 15, 2009.^{1/} In support hereof, the parties state:

1. This action involves consolidated and transferred petitions for review pursuant to section 509(b)(1) of the Federal Water Pollution Control Act, 33 U.S.C. § 1369(b)(1), which challenge EPA's final general permit entitled "Final National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges Incidental to the Normal Operation of a Vessel," 73 Fed. Reg. 79,473 (Dec. 29, 2008) (the "Permit").

2. On February 6, 2009, this Court granted the joint motion filed by Lake Carriers and EPA, parties in the two cases originally filed in this Court challenging the Permit, for a stay of all proceedings in this matter. In that motion, the parties requested a stay because the 120-day statutory period for filing petitions for judicial review in response to the Permit had not yet run. That period has now closed and the additional petitions for review that were timely filed in other Circuit Courts of Appeals have been transferred to this Court pursuant to the

^{1/} Two additional petitions for review relating to the Permit have been filed in the Ninth Circuit by Northwest Environmental Advocates, *et al.* ("NWEA") – 9th Cir. Case Nos. 09-70115 & 09-70455. In separate orders filed May 29, 2009 and June 1, 2009, the Ninth Circuit ordered the clerk of that court to transfer those two petitions to this Court and close the two cases. The Ninth Circuit clerk is in the process of implementing those transfer orders. In anticipation of those transfers to this Court, NWEA joins in this stay motion.

direction of the Judicial Panel on Multidistrict Litigation and consolidated with Case No. 1001.

3. On March 3, 2009, this Court issued an order requiring the parties to file motions to govern further proceedings by June 12, 2009.

4. While this matter was in abeyance, EPA conducted initial discussions with each of the Petitioners to explore whether there are issues that may be resolved through settlement. The parties desire to extend the stay of proceedings in this matter until October 15, 2009 to allow these discussions to continue. On or before October 15, 2009, EPA will file its certified list of the documents and other materials constituting the administrative record.

Therefore, the parties jointly request entry of an order continuing the existing stay of these proceedings for an additional four months, *i.e.*, through October 15, 2009, at which time the parties will advise the Court regarding the status of this matter, including recommendations for further proceedings.

Respectfully submitted June 12, 2009:



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CERTIFICATE OF SERVICE

I hereby certify that on the 12th of June, 2009, a copy of the foregoing JOINT STATUS REPORT AND JOINT MOTION TO CONTINUE EXISTING STAY OF PROCEEDINGS was served by regular mail, upon the following:

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