

Environmental Protection Agency  
Environmental Appeals Board

AGREEMENT TO PARTICIPATE IN ADR

Case Name:

Appeal Number:

The parties to this matter voluntarily agree to participate in good faith in the Alternative Dispute Resolution (“ADR”) program of the Environmental Appeals Board (“EAB” or “Board”). This program is explained in the Board’s Alternative Dispute Resolution Program Information Sheet (“Information Sheet”). The parties acknowledge that they have read and understand the Board’s ADR program as explained in the Information Sheet and have had the opportunity to seek clarification or explanation from the Settlement Judge and/or the Settlement Counsel. As explained in the Information Sheet, the confidentiality provisions of the Administrative Dispute Resolution Act apply to this ADR process.

If some or all of the issues are not resolved through ADR and the matter is returned to the Board’s active docket for resolution, neither the Settlement Judge nor the EAB Settlement Counsel will participate in any discussions or decisions relating to the subject matter of this ADR proceeding. Each party agrees that it will not seek to compel the testimony of the Settlement Judge, EAB Settlement Counsel, or any persons who may have acted as staff to the Settlement Judge or EAB Settlement Counsel as a witness in any court or administrative proceeding and will not seek to compel the production of any documents related to this ADR proceeding that may have been retained by the EAB in any court or administrative proceeding. The parties further understand that any documents generated for purposes of ADR or any notes taken during the ADR process will be retained by the Settlement Judge or the EAB Settlement Counsel until the ADR process has been completed. All such documents and notes will be destroyed in accordance with Agency records retention policies.

The parties understand that this ADR process can be terminated at any time and for any reason by any party or by the EAB Settlement Judge. No party shall be bound by anything occurring during this ADR process unless a written agreement is signed by all necessary parties and approved by the Settlement Judge. To promote frank and productive discussion, the parties agree that the Board’s ADR process is confidential. The parties agree not to disclose oral or written communications made during the ADR process, including settlement terms, proposals, offers, or other statements, whether made privately to the Settlement Judge and/or the Settlement Counsel or when all parties are present.

The parties understand that the Settlement Judge and the EAB Settlement Counsel serving as neutrals in this ADR process have no authority to decide this matter and are not acting as advocates for either party. The parties further understand that any opinions or assessments provided by the Settlement Judge or EAB Settlement Counsel during the course of ADR have no binding effect on any later order or decision of the Board should the matter be returned to the EAB’s active docket. Any opinions or assessments are based solely on the information the

parties provide during the ADR process and may not be used as definitive predictors of the outcome should the Board be called upon to issue any order or decision. Additionally, any opinions or assessments of the Settlement Judge or EAB Settlement Counsel may not be cited in any subsequent proceedings that may occur.

The parties recognize that the Board's ADR program is intended as an expeditious process which should be completed within a limited time period. This matter has been stayed while the parties attempt to reach a mutually agreeable resolution. The parties agree to make themselves available to participate in ADR and conclude the process and any settlement agreement without delay.

By signature below, we acknowledge that we have read, understand, and agree to the terms of this Agreement to Participate in ADR.

\_\_\_\_\_  
Party (sign and print)

\_\_\_\_\_  
Representative

Date: \_\_\_\_\_

\_\_\_\_\_  
Party (sign and print)

\_\_\_\_\_  
Representative

Date: \_\_\_\_\_

\_\_\_\_\_  
Party (sign and print)

\_\_\_\_\_  
Representative

Date: \_\_\_\_\_