

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

UNITED STATES OF AMERICA,)	Case Action No. 0:21-cv-02053-SAL
)	
Plaintiff,)	
)	
v.)	
)	
NEW-INDY CATAWBA LLC,)	
)	
Defendant.)	

**JOINT STATUS UPDATE AND
MOTION TO EXTEND THE CONSENT ORDER**

Plaintiff the United States of America and Defendant New-Indy Catawba LLC (“New-Indy Catawba”) hereby provide the following status update pursuant to the Court’s Consent Order, Dkt. No. 6, and respectfully move to extend the Consent Order by 60 days, through and including December 30, 2021.

What has already happened. The United States filed the complaint and the same day the parties agreed to a Consent Order, which this Court entered, and which:

- Required Defendant to undertake certain actions and imposed emission concentration levels; and
- Stayed the case until October 31, 2021.

In the interim, Defendant has taken steps to comply with the Court’s Consent Order, and to address emissions of Hydrogen Sulfide (H₂S) from the mill. Since entry of the Court’s Consent Order, Defendant has continued to: monitor fence line concentrations of H₂S; maintain and operate its steam stripper; monitor and supplement its Wastewater Treatment Plant with peroxide and ferric chloride; monitor and optimize mill processes to minimize organic and chemical losses to the

wastewater stream; dredge the Aeration Stabilization Basin; and evaluate the effectiveness of a flexible cover and carbon filtration system on the post-aeration tank to reduce H₂S emissions.

Recently, several private citizens moved to intervene in this civil action. Plaintiff and Defendant each opposed the intervention motion.

What might happen later. Since the filing of the Court's Consent Order, the Parties have worked to resolve environmental issues relating to New-Indy Catawba's operations. It is possible that a final settlement could be reached, and the parties are working to that end. If that happens, the United States will lodge the settlement with the Court and hold a public comment period under 28 C.F.R. § 50.7. The United States would specifically provide notice to the putative interveners. After considering the comments, the United States will either: (1) withdraw from the settlement based on the comments; (2) ask Defendant to amend the settlement based on the comments; or (3) ask this Court to approve the settlement, in which case any comments received will be provided to the Court.

If no such settlement is reached, the United States will evaluate its options to seek a preliminary, interim, or permanent injunction, or to otherwise proceed with this civil action.

What should happen now. The parties respectfully request that the Court extend the Consent Order by 60 days. This will maintain the *status quo* while the issue of intervention is decided, and will allow Defendant to continue efforts to address emissions of H₂S from the mill. It will also give an opportunity for Plaintiff and Defendant to determine whether a final resolution of the case is possible without litigation. Thus, the parties hereby agree and respectfully move the

Court to extend the Consent Order, Dkt. No. 6, including the stay of litigation, for an additional sixty days up to and including December 30, 2021.¹ A proposed order is attached.

October 26, 2021

RESPECTFULLY SUBMITTED

DEFENDANT NEW-INDY CATAWBA LLC

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¹ While Plaintiff does not oppose lifting the stay for purposes of addressing the pending motion to intervene (Dkt. No. 7), Defendant does object (Dkt. No. 19 at 33).