

WENDY J. OLSON, IDAHO STATE BAR NO. 7634  
UNITED STATES ATTORNEY  
**JOANNE P. RODRIGUEZ, IDAHO STATE BAR NO. 2996**  
**ASSISTANT UNITED STATES ATTORNEY**  
DISTRICT OF IDAHO  
WASHINGTON GROUP PLAZA IV  
800 EAST PARK BOULEVARD, SUITE 600  
BOISE, ID 83712-7788  
TELEPHONE: (208) 334-1211  
FACSIMILE: (208) 334-1414  
Joanne.Rodriguez@usdoj.gov

Attorneys for Defendant

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

ELIZABETH E. MORRIS; and ALAN C.  
BAKER,

Plaintiffs,

v.

U.S. ARMY CORP OF ENGINEERS, et al.,

Defendant.

Case No. 3:13-CV-00336-BLW

**MOTION TO STAY**

Defendant U.S. Army Corp of Engineers hereby moves for a stay of any hearing on Plaintiffs' Motion for Preliminary Injunction and filing of Defendant's Answer to Complaint on October 15, 2013, in the above-captioned case. The grounds for this ex parte request are as follows:

At midnight on September 30, 2013, the continuing resolution that was funding the Department of Justice expired and appropriations to the Department lapsed. The same is true

**MOTION TO STAY - 1**

for most Executive Branch agencies, including the Federal Defendants involved in this case. The date when funding will be restored by Congress has not been established.

The Anti-deficiency Act, 31 U.S.C. §1341, as construed by the Attorney General, provides that in the absence of appropriated funds, no obligation can be incurred except for the protection of life and property, the orderly suspension of operations, or as otherwise authorized by law. This means that absent an appropriation, Department of Justice attorneys and employees of the Federal Defendants' agencies are prohibited from working, even on a volunteer basis, "except for emergencies involving the safety of human life or the protection of property." 31 U.S.C. §1342. Accordingly, each U.S. Attorney has been instructed to designate those attorneys and support staff whose work is necessary to sustain legal operations essential to the safety of human life and the protection of property. The Department of Justice has issued guidance that gives priority to continuing work on criminal cases. Consequently, very few employees in the Civil Division of the United States Attorney's Office will be authorized to work during a lapse in appropriations – the rest will be furloughed.

The undersigned counsel for the Federal Defendants has been informed that she will be furloughed for the duration of the lapse in appropriations. Therefore, the undersigned counsel requests a stay of any hearing on Plaintiffs' Motion for Preliminary Injunction and filing of Defendant's Answer to Complaint on October 15, 2013, until Congress has restored appropriations to the Department and she is permitted to resume work on this case. This Court has the authority to extend or stay proceedings in this case without a formal motion or notice to opposing counsel. Fed. R. Civ. P. 6(b)(1)(A).

If this motion for a stay is granted, undersigned counsel will notify the Court as soon as

**MOTION TO STAY - 2**

Congress has appropriated funds for the Department. Counsel requests that, at that time, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

Respectfully submitted this 1<sup>st</sup> day of October, 2013.

WENDY J. OLSON  
UNITED STATES ATTORNEY

/s/ Joanne P. Rodriguez  
JOANNE P. RODRIGUEZ  
ASSISTANT UNITED STATES ATTORNEY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1<sup>st</sup> day of October, 2013, the foregoing **MOTION TO STAY** was electronically filed with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following person(s):

James M. Manley  
[Jmanley@mountainstateslegal.com](mailto:Jmanley@mountainstateslegal.com)

John L. Runft  
[Jrunft@runftsteele.com](mailto:Jrunft@runftsteele.com)

Steven J. Lechner  
[Lechner@mountainstateslegal.com](mailto:Lechner@mountainstateslegal.com)

I HEREBY CERTIFY that on this same day a copy was mailed via United States Postal Service-prepaid to the following person(s):

NA

/s/ Rebecca L. Early  
Rebecca L. Early  
Supervisory Legal Assistant