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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PUBLIC EMPLOYEES FOR  
ENVIRONMENTAL RESPONSIBILITY  
and WILD FISH CONSERVANCY,

Plaintiffs,

v.

U.S. DEPARTMENT OF THE NAVY;  
RAYMOND E. MABUS, JR., in his  
official capacity as Secretary of the Navy;  
U.S. FISH AND WILDLIFE SERVICE;  
KEN SALAZAR, in his official capacity  
as Secretary of the Interior; NATIONAL  
MARINE FISHERIES SERVICE; and  
GARY LOCKE, in his official capacity as  
Secretary of Commerce,

Defendants.

CASE NO. C08-5552BHS

ORDER GRANTING  
DEFENDANTS' SECOND  
MOTION TO EXTEND STAY  
OF ACTION

This matter comes before the Court on Defendants' second motion to continue the stay of this action (Dkt. 41). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby grants the motion for the reasons stated herein.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

This case involves a challenge to Defendants' Explosive Ordnance Disposal ("EOD") underwater training exercises in Puget Sound, Washington. For a more thorough description of the facts, see Dkt. 32 (order granting in part motion to dismiss and staying the case).

1 On February 23, 2010, the Court granted a stay in this matter pending the Navy's  
2 issuance of an ROD. Dkt. 40. It was expected that the ROD would issue on or before June  
3 25, 2010. *Id.* at 3 (citing Dkt. 32 at 13-19). As of the date of this order, the ROD has not  
4 issued. On June 17, 2010, Defendants filed the instant motion for a second continuance of  
5 the initial stay. Dkt. 41. On June 23, 2010, Plaintiffs' ("PEER") responded in opposition  
6 to the motion. Defendants did not reply.

7 The Court concludes that, for the same reasons given in the previous order  
8 continuing the stay in this matter (Dkt. 40), Defendants have shown good cause for a  
9 second extension of the stay in this matter pending the Navy's issuance of an ROD on or  
10 before October 25, 2010. This order operates solely to extend the date for which this  
11 matter is stayed; the original order staying the matter remains effective in all other  
12 respects. *See* Dkt. 32 (setting out conditions of stay).

13 The Court is sympathetic to PEER's concerns that Defendants are engaging in a  
14 stalling tactic, and agrees that PEER is entitled to have its case heard. In the event  
15 Defendants request a third continuance, the Court may, absent better justifications, be less  
16 inclined to grant yet another continuance.

### 17 III. ORDER

18 Therefore, it is hereby

19 **ORDERED** that Defendants' second motion to continue the stay in this matter  
20 (Dkt. 41) is **GRANTED** as discussed herein. This case shall be **STAYED** until October  
21 25, 2010, or until the ROD issues, whichever occurs earlier.

22 DATED this 27<sup>th</sup> day of July, 2010.

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25 BENJAMIN H. SETTLE  
26 United States District Judge  
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