

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CITY OF BEAUFORT, et al.,)	Civ. No. 2:18-cv-3326-RMG
)	
Plaintiffs,)	(Consolidated with 2:18-cv-3327-RMG)
)	
v.)	MOTION FOR STAY OF THE DEADLINE
)	FOR DEFENDANTS’ RESPONSE TO
NATIONAL MARINE FISHERIES)	MOTION TO INTERVENE OF THE
SERVICE, et al.,)	STATE OF SOUTH CAROLINA IN LIGHT
)	OF LAPSE OF APPROPRIATIONS
Defendants.)	
)	

The United States of America hereby moves for a stay of the deadline for Defendants’ response to the Motion to Intervene of the State of South Carolina, ex rel. Alan Wilson, Attorney General (ECF 59) in the above-captioned case.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including Federal Defendants, the National Marine Fisheries Service, Wilbur Ross, in his official capacity as the Secretary of Commerce, and Chris Oliver, in his official capacity as the Assistant Administrator for Fisheries. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees of the Federal Defendants are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3. Undersigned counsel for the Department of Justice therefore requests a stay of the January 22, 2019 deadline for Federal Defendants' response to the Motion to Intervene filed by the State of South Carolina until Congress has restored appropriations to the Department.

4. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. The Government requests that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

5. Counsel for the proposed Intervenor State of South Carolina has authorized counsel for the Government to state that it does not consent to an indefinite stay of the deadline for Federal Defendants' response, but "will consent to an extension of time to file a return to [the State's] motion of 14 days subject to [the State's] right to request that the Court proceed before then with a ruling on [the] motion to intervene if a motion for a preliminary injunction or TRO is filed." Counsel for Plaintiffs has authorized counsel for the Government to state that they "will consent to a 14-day extension." Counsel for the proposed Intervenors American Petroleum Institute, CGG Services (U.S.) Inc., International Association of Geophysical Contractors, Spectrum Geo Inc., TGS-NOPEC Geophysical Company, and WesternGeco LLC has authorized counsel for the Government to state that they do not oppose this motion.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of Federal Defendants' response to the Motion to Intervene filed by the State of South Carolina in this case until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully submitted this 8th day of January, 2019.

JEAN E. WILLIAMS
Deputy Assistant Attorney General

Environment and Natural Resources Division
SETH M. BARSKY, Chief
MEREDITH L. FLAX, Assistant Chief

By: /s/ Alison C. Finnegan
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CERTIFICATE OF SERVICE

I hereby certify that on January 8, 2018, I electronically filed the foregoing Motion for a Stay of the Deadline for Defendants' Response to Motion to Intervene of the State of South Carolina in Light of Lapse of Appropriations with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record.

/s/ Alison C. Finnegan