

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICAN PETROLEUM INSTITUTE,  
*et al.*

Plaintiffs,

v.

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION,  
100 F Street, N.E.  
Washington, D.C. 20549,

Defendant.

Case No. 1:12-CV-1668 (JDB)

**DEFENDANT’S CONSENT MOTION TO STAY PROCEEDINGS**

Defendant, the United States Securities and Exchange Commission (“SEC”), hereby moves this Court for an order staying these proceedings until such time as the United States Court of Appeals for the District of Columbia Circuit issues its decision on a petition for review filed by Plaintiffs raising identical issues to those raised in this action, or until such time as the Court lifts the stay upon an appropriate motion. Counsel for the SEC has conferred with counsel for Plaintiffs, who have indicated that Plaintiffs consent to this motion.

**STATEMENT OF POINTS AND AUTHORITIES**

Plaintiffs filed this action seeking review of a rule promulgated by the SEC under Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”), Pub. L. No. 111-203, § 1504, 124 Stat. 1376, 2220 (2010), (codified at 15 U.S.C. § 78m(q)), requiring disclosure of certain information by resource extraction issuers (“Extractive Industries Rule” or “Rule”). Simultaneously, Plaintiffs filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit also seeking review of the Rule, raising identical

issues to those raised in this action. American Petroleum Institute, et al. v. Securities and Exchange Commission, No. 12-1398 (D.C. Cir.). The basis asserted for this Court's jurisdiction over review of the Rule is the Administrative Procedure Act, 5 U.S.C. § 500 *et seq.* ("APA"), while the basis asserted for the Court of Appeals' jurisdiction is Section 25 of the Securities Exchange Act, 15 U.S.C. § 78y.

Although Plaintiffs filed actions seeking review of the Rule in both this Court and the Court of Appeals, both Plaintiffs and Defendant agree that the Court of Appeals is the appropriate forum with exclusive jurisdiction to review the Rule. See Investment Company Institute v. Board of Governors, Federal Reserve System, 551 F.2d 1270 (D.C. Cir. 1977); see also Florida Power & Light Co. v. Lorion, et al., 470 U.S. 729 (1985). On November 1, 2012, the Court of Appeals entered an order directing the parties to address the issue of jurisdiction as part of their briefs on the merits of Plaintiffs' petition for review of the Rule. Attachment 1. According to the briefing schedule set by the Court of Appeals, briefing is to commence December 3, 2012, and be completed by January 28, 2013. *Id.* Given that the Court of Appeals will address the issue of jurisdiction as part of its review on the merits, the parties agree that this action should be stayed pending a final decision by the Court of Appeals on Plaintiffs' petition for review, or until such time as this Court lifts the stay following a motion.

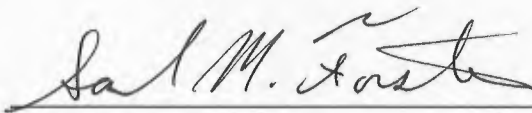
After the Court of Appeals' final decision, the parties propose to submit a status report to the Court advising it of the outcome of the Court of Appeals' decision and any proposed further proceedings in this action. The parties have also agreed that either party may request relief from this stay at any time by motion, which will state the grounds for requesting relief from the stay.

**CONCLUSION**

For the foregoing reasons, the SEC, with the consent of Plaintiffs, requests that the Court stay these proceedings until such time as the Court of Appeals for the District of Columbia Circuit issues its final order regarding Plaintiffs' petition for review in American Petroleum Institute, et al. v. Securities and Exchange Commission, No. 12-1398 (D.C. Cir.). A proposed order is attached.

Respectfully submitted,

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Dated: December 4, 2012

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PROPOSED ORDER

Upon consideration of the Defendants' consent motion to stay proceedings, it is this  
\_\_\_\_\_ day of \_\_\_\_\_, 2012, hereby

ORDERED that all proceedings in this action are stayed until such time as the Court of Appeals for the District of Columbia Circuit issues its final order regarding Plaintiffs' petition for review in American Petroleum Institute, et al. v. Securities and Exchange Commission, No. 12-1398 (D.C. Cir.), or until the Court lifts the stay following an appropriate motion. Following the Court of Appeals' final order, the parties shall submit a status report to the Court advising it of the outcome of the Court of Appeals' decision and any proposed further proceedings in this action.

UNITED STATES DISTRICT JUDGE

cc:

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