

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**CHESAPEAKE BAY FOUNDATION, INC.,
and JAMES RIVER ASSOCIATION,**

Plaintiffs,

v.

COUNTY OF HENRICO,

Defendant.

Civil Action No.: 3:21-cv-00752-DJN

**NOTICE OF SETTLEMENT AND
JOINT MOTION TO STAY LITIGATION**

Defendant County of Henrico (“Henrico”), jointly with Plaintiffs Chesapeake Bay Foundation, Inc. and James River Association (collectively “the Parties”), hereby notify the Court that the Parties have reached a settlement in this matter, and respectfully request that the Court stay all proceedings and deadlines in this case through December 31, 2022 for the following reasons.

1. In accordance with the Court’s May 13, 2022 Scheduling and Pretrial Order (ECF No. 37) and with Magistrate Judge Colombell’s May 13, 2022 Order Regarding Procedures for Settlement Conference (ECF No. 40) and July 11, 2022 Order Rescheduling Settlement Conference (ECF No. 44), the Parties attended a settlement conference in Judge Colombell’s chambers on September 13, 2022.

2. At the September 13, 2022 conference, the Parties reached agreement on settlement and were instructed to provide Magistrate Judge Colombell with notice by September 15, 2022, that a written settlement agreement had been fully executed.

3. On September 15, 2022, the Parties executed the Settlement Agreement and informed Magistrate Judge Colombell's chambers by email.

4. As explained below, upon satisfaction of one contingency included as a condition of the Settlement Agreement, the agreement will resolve all claims by Plaintiffs against Henrico.

5. The Settlement Agreement obligates the Parties to make a joint request to the Virginia Department of Environmental Quality ("DEQ") by September 30, 2022, to modify its December 15, 2021 Consent Order with Henrico in accordance with Attachment A of the Settlement Agreement (to add certain agreed requirements). The Parties anticipate that it may take DEQ through December 2022 to resolve and approve the Parties' request to modify the 2021 Consent Order in this manner.

6. Although the Parties believe that DEQ will approve the requested Consent Order modifications, the Settlement Agreement contains a contingency clause that will dictate the Parties' action once DEQ has responded to the Parties' joint request. If DEQ modifies the Consent Order as requested, Plaintiffs will move to dismiss this action with prejudice within five (5) business days of the effective date of the Consent Order modification. However, if DEQ declines to modify the Consent Order in accordance with the Settlement Agreement, the Parties shall meet to discuss the status of the litigation and expiration of the requested stay no later than December 31, 2022, and the other provisions of the Settlement Agreement shall have no force and effect.

7. Magistrate Judge Colombell has set a status call with the Parties for Friday, December 16, 2022.

8. For the foregoing reasons, the Parties request that the Court stay all proceedings and deadlines associated with this case through December 31, 2022.

Date: September 16, 2022

Respectfully submitted,

/s/Christopher D. Pomeroy

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Counsel for James River Association

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of September, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such public filing to all counsel registered to receive such notice.

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