

ERIC BALABAN  
AJMEL QUERESHI  
National Prison Project  
American Civil Liberties Union  
915 15th Street, NW, 7th Floor  
Washington, DC 20005

ANNA CONLEY  
ACLU of Montana  
P.O. Box 9138  
Missoula, MT 59807

Attorneys for Plaintiffs

REBEKAH J. FRENCH  
Special Assistant Attorney General  
Risk Management and Tort Division  
P.O. Box 200124  
Helena, Montana 59620-0124

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

---

IN THE MATTER OF LITIGATION )	
RELATING TO CONDITIONS OF )	CAUSE NO. CV 93-46-H-
CONFINEMENT AT MONTANA )	DWM-JCL
STATE PRISON, )	
_____ )	
)	
THIS DOCUMENTS RELATES TO: )	
<i>Terry LANGFORD, et. al.,</i> )	
)	
Plaintiffs, )	<b>JOINT MOTION TO</b>
)	<b>APPROVE STIPULATION</b>
v. )	
)	
<i>Gov. Steve BULLOCK, et. al.,</i> )	
)	
Defendants. )	

---

The parties hereby move this Court to enter the annexed Stipulation Regarding Extension of the Monitoring Period in the above-entitled action as an Order of the Court. The parties have conferred regarding future monitoring in this case and have reached an agreement memorialized in the annexed Stipulation, which is signed by both parties.

Respectfully submitted,

\_\_\_\_s/Eric Balaban\_\_\_\_\_  
Eric Balaban  
National Prison Project  
Of the ACLU Foundation  
915 15<sup>th</sup> Street, 7<sup>th</sup> Floor  
Washington, DC 20005

\_\_\_\_s/Rebekah French\_\_\_\_\_  
Rebekah J. French  
Special Assistant Attorney General  
Risk Management and Tort Division  
P.O. Box 200124  
Helena, Montana 59620-0124

ERIC BALABAN  
AJMEL QUERESHI  
National Prison Project  
American Civil Liberties Union  
915 15th Street, NW, 7th Floor  
Washington, DC 20005

ANNA CONLEY  
ACLU of Montana  
P.O. Box 9138  
Missoula, MT 59807

Attorneys for Plaintiffs

McKenzie Hannan  
Special Assistant Attorney General  
Montana Dep't of Corrections  
P.O. Box 201301  
Helena, MT 59620-1301  
406/444-3918

Rebekah J. French  
Risk Management & Tort Defense  
Division  
1625 11<sup>th</sup> Avenue, Middle Floor  
P.O. Box 200124  
Helena, MT 59620-0124  
406/444-2421

Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

**IN THE MATTER OF LITIGATION  
RELATING TO CONDITIONS OF CONFINEMENT  
AT MONTANA STATE PRISON,**

---

**THIS DOCUMENT RELATES TO:**

**LANGFORD, et al.,**  
Plaintiffs,

v.

**GOV. STEVE BULLOCK, et al.,**  
Defendants.

CV 93-46-H-DWM-JCL

**JOINT STIPULATION  
REGARDING EXTENSION  
OF MONITORING PERIOD**

I. History

This action concerns conditions at Montana State Prison (MSP). On December 30, 1993, the Plaintiffs filed their Fifth Amended Complaint and on January 14, 1994, the Court certified the case as a class action. Following several months of negotiations, the parties entered into a Settlement Agreement resolving most of the Plaintiffs' claims. The Court approved and entered the Agreement under Rule 23(c) of the Federal Rules of Civil Procedure on November 29, 1994.

Over the next ten years, the parties stipulated to the dismissal of various issues in the case on the basis of expert findings that Defendants were in substantial compliance with several of the Agreement's provisions. The sole remaining issue is Defendants' compliance with the Agreement's ADA provision:

Defendants shall ensure that inmates with disabilities are not excluded from participation in, or denied the benefits of housing, services, facilities and programs because of their disabilities. The Defendants shall develop and implement plans to integrate the disabled inmates into the mainstream of the institution.

Doc. 314 at 21.

On June 29, 2012, this Court entered the parties' Unopposed Stipulation Regarding ADA Expert Appointment designating Paul Bishop "as the parties' expert to assess Defendants' compliance with the ADA provision (Section 9) of the Settlement Agreement." Doc. 1477 at 1.

On May 25, 2013, Paul Bishop and Raphael Subia, the Court-appointed experts, submitted their report finding that MSP's programs, as well as the facility, did not substantially comply with the ADA provision of the Agreement.

After Plaintiffs moved for specific performance regarding those issues and areas the experts concluded were not in substantial compliance with the ADA and Defendants filed their opposition to that motion, Plaintiffs filed an unopposed motion to stay further proceedings. (Doc. 1503). On September 9, 2013, the Court granted Plaintiffs' request for a stay of proceedings for sixty days and ordered the parties to file a status report on or before November 12, 2013, advising the Court regarding the status of negotiations between the parties. (Doc. 1504).

## II. Extension of the Monitoring Period

Although Defendants do not agree with the expert's conclusion that they are not in substantial compliance with the ADA provision of the Settlement Agreement, Defendants are willing to address some of the issues raised in the expert report and are in the process of addressing those issues.

One of the changes that Defendants plan to implement is a tracking system which will allow Montana State Prison (MSP) to track those inmates who have been identified as having a verified disability, as defined by the ADA, either through self-identification or referral. The State of Montana Department of

Corrections (DOC) already has an Offender Management and Information System (OMIS), which is used to track all offenders supervised by DOC. DOC Information Technology (IT) staff are working to add functions to OMIS that will enable MSP staff to use the system to track offenders with disabilities and to track any accommodations provided to those offenders. Because OMIS is used throughout DOC, and not just at MSP, DOC IT staff have had to seek input from all facilities and programs DOC operates to ensure that the changes they make to OMIS adequately meet all of DOC's needs. Further time is needed for Defendants to implement the proposed changes to OMIS, as well as adjust any related policies. Likewise, Plaintiffs require additional time to assess the suitability of any changes voluntarily implemented by Defendants.

Accordingly, the parties request that the Court extend the monitoring period for nine months to allow the Defendants to implement the proposed changes to OMIS, along with any other voluntary changes Defendants agree to make to MSP's procedures, and to allow Plaintiffs to assess those changes. At the conclusion of the nine month period, the parties shall submit to the Court a list of remaining issues requiring resolution.

### III. Continuing Jurisdiction

The Court shall retain jurisdiction over this action for the purpose of

enforcing the provisions of the Agreement that have not already been dismissed until such time as the Court orders a dismissal with prejudice pursuant to Section II of the Agreement. This stipulation shall have no effect on the parties' existing rights and obligations under the Agreement except as expressly set forth therein.

DATED this 12th day of November,  
2013

DATED this 12th day of November,  
2013

For Plaintiffs

For Defendants

/s/ Eric Balaban

Eric Balaban  
National Prison Project of the ACLU  
915 15th St. NW, Seventh Floor  
Washington, DC 20005  
202/393-4930

/s/ Rebekah J. French

Rebekah J. French  
Montana Department of Administration,  
Risk Management and Tort Defense  
Division  
1625 Eleventh Avenue, Middle Floor  
P. O. Box 200124  
Helena, MT 59620-0124