

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

_____)	
In re:)	
)	NPDES APPEAL No. 17-03
City of Ruidoso Downs and)	
Village of Ruidoso WWTP)	
)	
NPDES Permit No. NM 0029165)	
_____)	

JOINT MOTION TO RESCHEDULE JUNE 14, 2018 ORAL ARGUMENT

On April 12, 2018, the Environmental Appeals Board (“Board”) issued an Order setting this matter for oral argument on June 14, 2018. On April 24, 2018, the Board – which had been previously apprised of an imminent motion to continue oral argument and/or motion to stay this matter – issued an e-mail Order directing the parties to attend to the scheduling issue without further delay, and proposing June 5 and June 7 as alternative oral argument dates. All of the parties who are interested in this Petition for Review – Petitioner Rio Hondo Land & Cattle Company (“Rio Hondo”), Respondent United States Environmental Protection Agency Region 6 (“EPA Region 6”), and the Permittees (collectively referred to as “Ruidoso”) – hereby respectfully move the Board to issue an Order rescheduling the oral argument.

As grounds for this Joint Motion to Reschedule, the parties state as follows:

First, the current setting of June 14, 2018 conflicts with long-standing family vacations plans of counsel for Rio Hondo. Specifically, counsel will be on a boat with his family in a remote wilderness area of British Columbia to celebrate his mother’s 80th birthday from June 9, 2018

through June 19, 2018. During that period of time, counsel will have no access to telecommunications services or electronic data services.

Second, Rio Hondo and Ruidoso are now engaged in discussions aimed at resolving Rio Hondo's water quality concerns in the Rio Ruidoso without the need for further litigation. EPA is aware of these ongoing discussions between Rio Hondo and Ruidoso, and is not opposed to continued discussion that may result in withdrawal of the permit appeal at issue in this Petition for Review. If the on-going negotiations are fruitful, then Rio Hondo would dismiss its Petition for Review in this matter as part of a negotiated settlement. Rescheduling of the June 14, 2018 oral argument to a later date would facilitate further work towards a comprehensive settlement of Rio Hondo's water quality concerns, including this matter.

All parties join in the motion to reschedule the June 14 oral argument. Rio Hondo and EPA Region 6 are available on June 7 (one of the Board's proposed alternative dates), but the availability of Ruidoso on the Board's proposed alternative dates is unknown as its counsel is on vacation in Europe and the undersigned have had no success in communicating with him about these dates. Rio Hondo and EPA Region 6 are also available for oral argument on June 28, July 26, August 2, and August 16, but have been unable to obtain information on Ruidoso's availability on these dates for the reason set out above. All the parties are available for oral argument on September 28, 2018, and Rio Hondo and Ruidoso specifically request that the Board reschedule the oral argument for September 28, 2018 to allow the parties the greatest amount of time in which to conduct their continuing settlement negotiations.¹ EPA Region 6

¹ Ruidoso's counsel conveyed its position on rescheduling the June 14, 2018 oral argument before he left for his vacation.

does not object to Rio Hondo's and the permittee's request for a September 28, 2018 oral argument setting.

Respectfully submitted this 26th day of April, 2018

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 6**

/s/ David Gillespie

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CERTIFICATE OF SERVICE

The parties to this action have agreed to accept service of filings in this matter through e-mail. A true and correct copy of this motion has been sent by e-mail to all parties in this appeal.

/s/ Steven Sugarman