

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC**

In re:

Deseret Power Electric Cooperative
Bonanza Power Plant

Permit # V-UO-000004-2019.00

Appeal No. CAA 24-01

MOTION FOR EXTENSION OF TIME TO RESPOND

Pursuant to 40 C.F.R. 124.19(g), the U.S. Environmental Protection Agency (“EPA”), Region 8 (“Region”), respectfully requests that the Environmental Appeals Board (“EAB”) grant a 45-day extension of time to file its Response Brief, including the certified index of the administrative record and relevant portions of the administrative record to the petition for review filed in the above-captioned permit appeal.

The Petitioner filed its appeal in this matter and the Region received service thereof on January 3, 2024. Pursuant to 40 C.F.R. 124.19(b)(2), the Region “must file a response to the petition, a certified index of the administrative record, and the relevant portions of the administrative record within 30 days after the service of a petition”, which means the Region’s response brief would be due on February 2nd, 2024. If the Region’s request for a 45-day extension of time contained in this motion were granted, EPA’s Response Brief would be due on March 18, 2024.

In its Appeal Brief, the Petitioner challenges EPA’s decision to renew a federal air permit issued under the Clean Air Act. The Petitioner also raises a wide array of issues related to other federal environmental laws and policies, including environmental justice, federal Indian law, climate change, and

ground water impacts. A proper response to this wide array of cross-cutting topics will require a substantial effort of collaboration between numerous offices in EPA ranging from EPA's Region 8 in Denver, Colorado, to Headquarters in Washington, DC, requiring the input of multiple attorneys, staff and managers in various specialized disciplines. Such a level of collaboration will take significant time. Consequently, EPA respectfully requests a 45-day extension of time to complete this undertaking.

Consistent with 40 CFR 124.19(f)(2), the Region contacted the Petitioner, and the Petitioner does not oppose this motion. Additionally, pursuant to 40 CFR 124.16(a), the Appeal has stayed the renewed permit, and Petitioner will not be prejudiced by an extension of time. The Region also contacted the Permittee, Deseret Power Electric Cooperative, and it likewise does not oppose this motion for an extension.

For the reasons stated above, the Region respectfully requests that the EAB grant a 45-day extension of time to March 18, 2024 for the Region to file its Response Brief, including the certified index of the administrative record and the relevant portions of the administrative record, in response to the Petitioner's Opening Brief.

Respectfully Submitted,

/s/ Randall H. Cherry
Randall H. Cherry
Office of Regional Counsel
EPA Region 8
1595 Wynkoop St.
Mail Code: 8ORC-LC-M
Denver, CO 80202
Phone: 303-312-6566
Email: Cherry.Randall@epa.gov

Date: January 24, 2024

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion for Extension of Time to Respond in the matter of Deseret Power Electric Cooperative, Bonanza Power Plant, Appeal Number CAA 24-01, was filed electronically with the Environmental Appeals Board's E-filing system, and was served on the following persons, this day of January 24, 2024, in the manner indicated below.

By Email

Attorney for the Petitioner

Michael W. Holditch
Jane W. Gardner
Attorney for the Petitioner
Patterson Earnhart Real Bird & Wilson LLP
1900 Plaza Drive
Louisville, CO 80027
Tel: (303) 926-5292
Fax: (303) 926-5293
mholditch@nativelawgroup.com
jgardner@nativelawgroup.com

Attorney for the Permittee

Makram B. Jaber
Partner
McGuireWoods LLP
888 16th Street N.W.
Suite 500
Black Lives Matter Plaza
Washington, DC 20006
T: +1 202 857 2416
M: +1 202 213 6404
F: +1 202 828 3356
mjaber@mcguirewoods.com

Respectfully Submitted,

/s/ Randall H. Cherry

Randall H. Cherry
Office of Regional Counsel
EPA Region 8
1595 Wynkoop St.
Mail Code: 8ORC-LC-M
Denver, CO 80202
Phone: 303-312-6566
Email: Cherry.Randall@epa.gov

Date: January 24, 2024