

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

In re Harvest Four Corners, LLC

Permit No. R6FOP-NM-04-R3-2023

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CAA Appeal No. 24-09

THIRD JOINT STATUS REPORT AND MOTION TO EXTEND ABEYANCE

Permittee Harvest Four Corners, LLC (“Harvest”) and Region 6 of the United States Environmental Protection Agency (“EPA”) (the “Parties”), by and through their undersigned attorneys, jointly submit this Status Report and respectfully request that the abeyance of Harvest’s CAA Appeal No. 24-09 be extended.

In support of this Motion, the Parties state the following:

1. On November 15, 2024, the Board issued the Order Granting Joint Motion for Abeyance and Cancelling Oral Argument. The Order requested that the Parties file a Joint Status Report by February 13, 2025, notifying the Board of the status of the settlement discussions and including the Parties’ proposal for further proceedings in this matter.
2. On February 13, 2025, the Parties filed a Joint Status Report and Motion to Extend the Abeyance, notifying the Board that the Parties had met to discuss the issues and concerns raised in the petition for the Part 71 permit, but noting that additional time was needed to negotiate a resolution of this matter.
3. On February 18, 2025, the Board issued an Order Granting Joint Motion to Extend

Abeyance. The Order requested that the Parties file a Joint Status Report by May 19, 2025, notifying the Board of the status of the settlement discussions and to include in the Joint Status Report proposed dates for oral argument if the parties have not reached a resolution of the matter by that time.

4. On May 19, 2025, the Parties filed a Second Joint Status Report and Motion to Extend the Abeyance, notifying the Board that the Parties had met multiple times to discuss resolution of the matter and reporting that EPA agreed to revise the Title V Permit to remove the contested provisions and would utilize its authority under 40 C.F.R. § 71.7(f) to reopen and revise the permit. The Parties also notified the Board that EPA was working on the draft permit and needed additional time to reopen and revise the permit.
5. On May 20, 2025, the Board issued a Second Order Granting Joint Motion to Extend Abeyance. The Order requested the Parties file a Joint Status Report by August 18, 2025, notifying the Board of the status of the permit revision and the Parties' proposal for further proceedings in this matter.
6. Since the Order, EPA prepared a revised draft permit removing the contested permit conditions. On August 4, 2025, EPA sent Harvest a "Notice of Intent" letter, providing Harvest with thirty days' notice, as required by 40 CFR § 71.7(f)(3), that EPA intends to reopen certain portions of the Title V Permit for cause.
7. The Parties respectfully request that the Board grant an additional 90-day extension of the abeyance to afford EPA time to carry out this process to reopen and revise the permit. An extension of the abeyance will also conserve the resources of both the Parties and the Board.
8. The Parties agree to provide a status update to the EAB within 90 days after an order extending the abeyance is issued.

WHEREFORE, the Parties respectfully request the EAB grant this Motion and extend the abeyance in this case.

Respectfully submitted,

/s/Aaron B. Tucker

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Attorneys for U.S. Environmental Protection Agency

DATE: August 15, 2025

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of Harvest Four Corners LLC's and the Environmental Protection Agency's Third Joint Status Report and Motion to Extend Abeyance were served by electronic filing and electronic mail to the following persons, on the 15th day of August, 2025:

Emilio Cortes
U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1200 Pennsylvania Ave., NW
Washington, D.C. 20460
Via EAB eFiling System

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