

F I L E D

Aug 03 2020

Clerk, Environmental Appeals Board

INITIALS

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

_____)	
In re:)	
)	
MPLX LP)	CAA Appeal No. 20-01
)	
Permit No. V-UO-000005-2018.00)	
)	
_____)	

ORDER GRANTING MOTION TO FILE SURREPLY

By motion filed July 31, 2020, the U.S. EPA Region 8 (“Region”) seeks leave to file a surreply to respond to what the Region asserts are new and incorrect arguments raised by MPLX’s reply brief. *EPA Region 8’s Motion for Leave to File Surreply* (July 31, 2020) (“Region 8 Motion”). The Region has attached a proposed surreply to its motion. According to the Region, it contacted MPLX regarding the motion and MPLX has taken no position and reserves all rights. *Id.* at 3.

The Environmental Appeal Board (“Board”) has discretion to grant requests for surreply briefs and has typically exercised that discretion to allow surreply briefs where it is alleged that new arguments are raised in reply briefs or where further briefing would assist the Board in resolving disputed claims. *See In re City of Lowell*, NPDES Appeal No. 19-03 (EAB Jan. 20, 2020) (Order Granting Surreply); *In re ArcelorMittal Cleveland, Inc.*, NPDES Appeal No. 11-01 at 1 (EAB Dec. 9, 2011) (Order Granting In Part EPA’s Motion to File Surreply) (citing cases); *see also* 40 C.F.R. § 124.19(n).

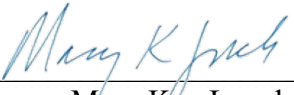
As noted, the Region alleges in its motion that MPLX’s reply brief raises new arguments and includes several misstatements that require correction. Region 8 Motion at 1-3. The Region also asserts that allowing the Region to file a surreply “will promote equity and efficiency, and will assist the Board in its decision-making.” *Id.* at 1.

Upon examination of the filings in this case, the Board concludes that a surreply brief would be helpful in its decision-making process and that good cause exists for granting the Region’s motion for leave to file such a brief. Accordingly, the Board hereby **GRANTS** the Region’s motion and the Region’s attached surreply is deemed filed and part of the record for this matter. No further briefs will be accepted on this matter.¹

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: August 3, 2020

By: 

Mary Kay Lynch
Environmental Appeals Judge

¹ In granting the Region’s Motion, the Board makes no determination on the merits of the Region’s arguments.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER GRANTING MOTION TO FILE SURREPLY** in the matter of MPLX, CAA Appeal No. 20-01, were sent to the following persons in the manner indicated:

By Electronic Mail:

Thomas H. Gibbons
HES Professional, MPLX
1515 Arapahoe Street, Tower 1, Suite 1600
Denver, CO 80202
THGibbons@marathonpetroleum.com

Colin G. Harris
Travis S. Jordan
Faegre Drinker Biddle & Reath LLP
1470 Walnut Street, Suite 300
Boulder, CO 80302
Colin.harris@faegredrinker.com

Stoney K. Vining
Senior Counsel, MPLX LP
1515 Arapahoe Street, Tower 1, Suite 1500
Denver, CO 80202
skvining@marathonpetroleum.com

Michael Boydston
Office of Regional Counsel
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
boydston.michael@epa.gov

Gautam Srinivasan
Associate General Counsel
Air and Radiation Law Office
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460
Srinivasan.Gautam@epa.gov

Dated: August 3, 2020



Eurika Durr
Clerk of the Board