

F I L E D

Feb 23, 2021

Clerk, Environmental Appeals Board

INITIALS

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

\_\_\_\_\_  
In re: )  
)

Wulf Cattle Depot )

NPDES Appeal No. 21-01

NPDES Permit No. SD-0034606 )  
)  
\_\_\_\_\_ )

**ORDER GRANTING EXTENSION OF TIME FOR  
FILING BRIEF IN SUPPORT OF PETITION FOR REVIEW**

On February 19, 2021, Wulf Cattle Depot filed a “Notice of Appeal” of a National Pollution Discharge Elimination System (“NPDES”) permit issued by Region 8 of the U.S. Environmental Protection Agency to Wulf Cattle Depot. Appeals of permit decisions under 40 C.F.R. § 124.15 are commenced by the filing of a petition for review. 40 C.F.R. § 124.19(a)(1). Such petitions “must identify the contested permit condition or other specific challenge to the permit decision and clearly set forth, with legal and factual support, petitioner’s contentions for why the permit decision should be reviewed.” *Id.* § 124.19(a)(4)(i). Rather than including the required contents of a petition for review in its Notice of Appeal, Wulf Cattle Depot attached to the Notice of Appeal a motion requesting an additional thirty days, from March 1, 2021 to March 31, 2021, to submit a brief setting forth the factual and legal grounds for their appeal.

Wulf Cattle Depot requests this thirty-day extension based on what it describes as the complex, technical nature of the permit and its extensive administrative record as well as the fact that counsel “was only recently obtained” to assist preparation of its petition for review. Wulf

Cattle Depot Unopposed Motion for Extension of Time to File Appeal Brief (Feb. 19, 2021).  
Wulf Cattle Depot represents that Region 8 does not oppose its request for an extension.

Accordingly, based on the representations in Wulf Cattle Depot's motion, the Board **GRANTS** this motion. Wolf Cattle Depot's brief in support of its Petition for Review must be filed with the Board on or before **March 31, 2021**.

In conjunction with this new date for submission of the brief in support of the Petition for Review, we are also revising, subject to future extension motions, several other due dates for submissions in this proceeding. First, Region 8 must file a response to the Petition for Review, a certified index of the administrative record, and the relevant portions of the administrative record with the Board on or before **April 30, 2021**. *See* 40 C.F.R. § 124.19(b)(1)-(2) (requiring these submissions from the Regional Administrator within twenty-one days after the service of the petition for a PSD or other new source permit and within thirty days for all other permit appeals under section 124.19). Additionally, if they choose to participate, States or Tribal authorities where the permitted facility or site is or is proposed to be located must file a notice of appearance and a response to the Petition for Review with the Board on or before **April 30, 2021**. *See id.* § 124.19(b)(4) (requiring States and Tribal authorities, if they choose to participate, to file a notice of appearance and a response to the petition for review within the time frame established for the Regional Administrator's response filings). Finally, if any interested person chooses to file an amicus brief, that brief must be filed with the Board on or before **April 21, 2021**. *See id.* § 124.19(e) (requiring amicus briefs be filed within twenty-one days of the filing of the petition). All of these adjustments to filing dates are made pursuant to 40 C.F.R. § 124.19(o), which authorizes the Board to "take all measures necessary for the efficient, fair, and impartial

adjudication of issues arising in an appeal under this part including \* \* \* relax[ing] or suspend[ing] the filing requirements prescribed by these rules or Board order.”


Pursuant to 40 C.F.R. section 124.19(i)(3)(iii), the Board is serving this Order by e-mail (Clerk\_EAB@epa.gov) at the addresses listed on the attached Certificate of Service.

Additionally, the Board has authorized all parties in permit appeals to use e-mail to fulfill their service obligations under 40 C.F.R. § 124.19(i)(3)(ii). *See Revised Order Authorizing Electronic Service of Documents in Permit and Enforcement Appeals (EAB Sept. 21, 2020).* Parties shall promptly notify the Board and the other parties of any changes to their e-mail addresses and shall provide an email address if they have not already done so.

So ordered.

**ENVIRONMENTAL APPEALS BOARD**

Dated: February 23, 2021

By:   
Kathie A. Stein  
Environmental Appeals Judge

## CERTIFICATE OF SERVICE

I certify that copies of the foregoing **Order Granting Extension of Time For Filing Brief in Support of Petition for Review** in the matter of *Wulf Cattle Depot*, NPDES Appeal No. 21-01, were sent to the following persons by electronic mail:

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Dated: February 23, 2021



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Eurika Durr  
Clerk of the Board