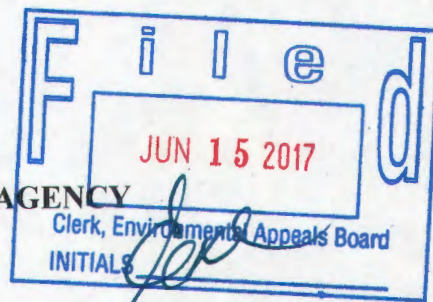


**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**



In re:)
Florence Copper, Inc.) UIC Appeal Nos. 17-01, 17-02 & 17-03
UIC Permit No. R9UIC-AZ3-FY11-1)
_____)

**ORDER ESTABLISHING FRAMEWORK FOR ORAL ARGUMENT
AND CLARIFYING SCOPE OF ARGUMENT**

Mr. John L. Anderson (UIC Appeal No. 17-01), the Gila River Indian Community (UIC Appeal No. 17-02), and joint petitioners Southwest Value Partners (“SWVP”) and the Town of Florence (UIC Appeal No. 17-03), have filed petitions with the Environmental Appeals Board (“Board”) requesting review of certain conditions of a Class III Underground Injection Control permit issued on December 20, 2016, by U.S. Environmental Protection Agency, Region 9 (the “Region”). The permit authorizes Florence Copper, Inc. (“FCI”) to construct and operate an in-situ copper recovery facility known as the “Production Test Facility” on land in Pinal County, Arizona. The Gila River Indian Community included in its petition a request to present oral argument in this proceeding. For the most part, each petition raises distinct challenges to the Region’s permit decision.

By Order dated May 17, 2017, the Board scheduled oral argument beginning at 1:00 p.m. (Eastern Time) on July 27, 2017, in the Administrative Courtroom, U.S. Environmental Protection Agency, William Jefferson Clinton East Building, Room 1152, 1201 Constitution Avenue N.W., Washington, D.C. *See* Order Scheduling Oral Argument and Directing Parties to Provide Notice of Election to Participate (“Order”). The Order stated that participation in the

oral argument was optional and directed all of the parties to “file a notice with the Board no later than May 31, 2017, stating whether they intend to participate in the oral argument and, if so, who will present oral argument and whether they will attend in person or they request to appear by videoconference.” *Id.* at 2. The Order also provided that “[o]nce the parties have filed their notices of participation, the Board will issue a further order on oral argument designating the order in which the petitions will be heard and allocating time.” *Id.*

In response to the Order, all parties in the three petitions stated that they will participate in the oral argument. Four of the parties, the Gila River Indian Community, Southwest Value Partners (“SWVP”), FCI, and the Region, will appear in person. Two parties, Mr. Anderson and the Town of Florence, will appear by video conference.¹

In its notice, FCI also sought clarification on the scope of oral argument. FCI stated that it was “uncertain whether the Board intends that each of the three petitions for review of Region 9’s decision to issue the * * * UIC permit be the subject of oral argument; or instead that only the Gila River Indian Community petition be the subject of oral argument, in which all three petitioners may participate.” Florence Copper, Inc.’s Motion for Clarification of Scope of Oral Argument and Statement of Intention to Participate at 1. In light of the parties’ response to the Order and the nature of the petitions, the Board has determined that hearing argument on each petition will be beneficial to the Board’s deliberations. Thus, the Board intends that each of the three petitions for review will be the subject of oral argument as set forth in the Oral Argument

¹ Mr. Anderson and the Town of Florence have indicated that they will both participate using the Town of Florence’s video conference facility. The Clerk of the Board will contact representatives for the Town of Florence to determine the compatibility of the Town’s videoconference equipment with the Board’s system.

Structure below. The Region has also requested that the Board “clarify * * * the scope of the issues to be presented for oral argument for each party who elects to participate, if appropriate.” Region 9 Notice Regarding Participation in Oral Argument at 1. As previously noted, for the most part each of the petitions raises distinct challenges to the Region’s permit decision. Thus, in the argument on each petition, the parties should be prepared to address the arguments made in the briefing on that particular petition. To the extent the Board wants the parties to be particularly prepared to address specific topics or questions in any petition, the Board will issue a further order closer to the argument date.

ORAL ARGUMENT STRUCTURE

Oral argument will begin at 1:00 pm Eastern Time and be structured as follows:

UIC Appeal No. 17-01

Presenters:

- Mr. Anderson (25 minutes)
- EPA Region 9 (15 minutes)
- FCI (10 minutes)

UIC Appeal No. 17-02

Presenters:

- Gila River Indian Community (25 minutes)
- EPA Region 9 (15 minutes)
- FCI (10 minutes)

UIC Appeal No. 17-03

Presenters:

- Town of Florence and SWVP (25 minutes)
- EPA Region 9 (15 minutes)
- FCI (10 minutes)

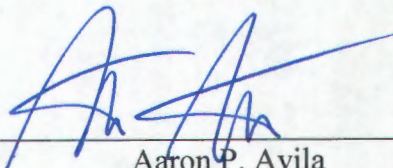
For security purposes, advance notice is required to gain entry into the EPA building where the Courtroom is located. Members of the public wishing to attend oral argument, including representatives of the parties, must contact the Clerk of the Board (Eurika Durr, 202-

233-0122, durr.eurika@epa.gov) sufficiently in advance of the oral argument to allow the Clerk reasonable opportunity to notify appropriate security personnel (i.e., no later than Thursday, July 20, 2017).

So ordered.²

ENVIRONMENTAL APPEALS BOARD

Dated: **JUN 15 2017**

By: 
Aaron P. Avila
Environmental Appeals Judge

² The three-member panel responsible for this order is composed of Aaron P. Avila, Mary Kay Lynch, and Mary Beth Ward.

CERTIFICATE OF SERVICE

I certify that copies of the forgoing *Order Establishing Framework for Oral Argument and Clarifying Scope of Argument* in the matter of Florence Copper, Inc, UIC Appeal Nos. 17-01, 17-02 & 17-03, were sent to the following persons in the manner indicated:

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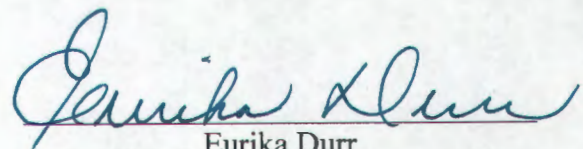
By EPA Pouch Mail:

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Office of Regional Counsel
U.S. EPA Region 9 (ORC-2)
75 Hawthorne St.
San Francisco, CA 94105

By Interoffice Mail:

Leslie Darman
Water Law Office
Office of General Counsel (MC-2355A)

Dated: JUN 15 2017



Eurika Durr
Clerk of the Board