

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



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In re: )

Florence Copper, Inc. )

) UIC Appeal No. 17-04

UIC Permit No. R9UIC-AZ-FY11-1 )  
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**ORDER SETTING DEADLINE FOR RESPONSE TO MOTION,  
STAYING RESPONSE TO PETITION,  
AND DENYING MOTION FOR EXTENSION OF TIME TO FILE RESPONSE**

On February 7, 2017, Ms. Karen J. Wall filed a petition for review with the Environmental Appeals Board, requesting review of certain conditions of a Class III Underground Injection Control (“UIC”) permit by U.S. EPA Region 9 (“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 FCI property near the town of Florence, Arizona. Under the part 124 permitting regulations, petitions for review must be filed “[w]ithin 30 days after” the permit issuer serves notice that a final permit decision has been issued. *See* 40 C.F.R. § 124.19(a)(3). While the Board may “relax or suspend” filing deadlines for “good cause,” *id.* § 124.19(n), where a party files a petition after the deadline for filing a petition for review has passed, “good cause” requires a showing of “special circumstances” to justify missing the deadline. *See In re Invensys Sys., Inc.*, NPDES Appeal No. 15-10, at 2 n.1 (EAB Aug. 6, 2015). Here, the Region served notice of the final UIC permit decision on December 20, 2016.

Thirty days later was January 19, 2017. After taking into account the rules for computation of time provided in 40 C.F.R. § 124.20(c) and (d) (extending a time period that ends on a weekend to the next working day and adding three days for service by mail), any petitions for review of the Region's permit decision were due on January 23, 2017.

On February 10, 2017, FCI filed a motion for "denial" of Ms. Wall's petition on the ground that the petition was not timely filed. Then, on February 24, 2017, FCI filed a document entitled "Completion of Florence Copper, Inc.'s Service of Motion to Dismiss Upon Petitioner Karen J. Wall" in which FCI represented that Ms. Wall was served a copy of FCI's motion "no later than February 16, 2017." That filing included as an attachment a U.S. Mail Return Receipt indicating delivery to Ms. Wall on February 16, 2017. To avoid any confusion as to the deadline for filing a response to FCI's February 10 motion that those filings may have caused, the Board orders that any party who intends to file a response to FCI's motion must do so on or before **March 14, 2017**. Any reply to a response is due on or before **March 20, 2017**.

In light of those deadlines, the Board hereby **stays** the Region's responsive filings required by 40 C.F.R. § 124.19(b) pending further order of the Board and **denies** the Region's pending "Unopposed Motion for Extension of Time to File Response" to Ms. Wall's petition as **moot**.

So ordered.

**ENVIRONMENTAL APPEALS BOARD**

Dated: March 3, 2017

By: Kathie A. Stein  
Kathie A. Stein  
Environmental Appeals Judge

**CERTIFICATE OF SERVICE**

I certify that copies of the foregoing *Order Setting Deadline for Response to Motion, Staying Response to Petition, and Denying Motion for Extension of Time to File Response* in the matter of Florence Copper, Inc., UIC Appeal No. 17-04, were sent to the following persons in the manner indicated:

**By First Class Mail:**

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Dated:           **MAR - 3 2017**          



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Annette Duncan  
Administrative Specialist