

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



In re:)

City of Ruidoso Downs and Village of)
Ruidoso WWTP)

NPDES Permit No. NM 0029165)

NPDES Appeal No. 17-03

**ORDER GRANTING EXTENSION OF TIME TO
FILE OPENING BRIEF**

On August 22, 2017, Rio Hondo Land & Cattle Company (“Rio Hondo”) filed both a petition for review of National Pollutant Discharge Elimination System (“NPDES”) Permit No. NM 0029165, and a motion for an extension of time to file its opening brief. Region 6 of the U.S. Environmental Protection Agency issued the permit on July 25, 2017, to the Village of Ruidoso and the City of Ruidoso Downs (collectively “Ruidoso”) in Lincoln County, New Mexico. In its motion for an extension of time, Rio Hondo requests an extension until October 12, 2017, for the filing of its opening brief. Rio Hondo reports that it has consulted both with counsel for Region 6 and for the permittee, Ruidoso, and that neither opposes Rio Hondo’s request for additional time.

In support of its motion, Rio Hondo cites several considerations. First, Rio Hondo notes that it has timely filed its petition for review. Second, Rio Hondo states that its counsel has a

heavy litigation schedule in August, including two appeals before the U.S. Court of Appeals for the Ninth Circuit. Finally, Rio Hondo indicates that its counsel will be on a long-planned vacation out of the U.S. for the period between August 18, 2017, and September 18, 2017.

Under the regulation governing permit appeals, the Environmental Appeals Board may, for good cause, grant extensions of time to the filing requirements prescribed by this regulation, including the deadline for filing the opening brief on appeal. 40 C.F.R. § 124.19(n); *See In re City & County of Honolulu Sand Island Wastewater Treatment Plant*, NPDES Appeal No. 09-01, at 2 (EAB Feb. 2, 2009) (Order Granting Alternative Motion for Extension of Time to File Petitions for Review). The Board has previously granted motions for an extension of time to file briefs in support of a petition in complex cases. *See, e.g., In re City & County of Honolulu Sand Island Wastewater Treatment Plant*, NPDES Appeal No. 09-01, at 3 (granting thirty-day extension to allow petitioner to file its briefs in support of two potentially complex appeals that were due on the same day); *In re Guam Waterworks Authority*, NPDES Appeal No. 9-15 & 9-16, at 4 (EAB Nov. 3, 2009) (Order Granting Motion in the Alternative to Timely File Summary Petitions with Extensions of Time to File Supplemental Briefs) (same).

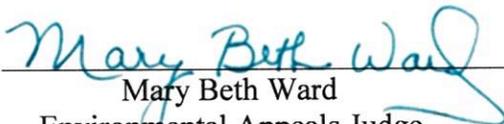
Rio Hondo has filed its petition for review within the 30-day time limit imposed by 40 C.F.R. § 124.19(a)(3). Further, its request for an additional extension of approximately 45 days to file its opening brief is reasonable given its counsel's litigation schedule and previously-planned extended vacation. Finally, the other parties to this petition, Region 6 and Ruidoso, do not oppose Rio Hondo's request, and thus are apparently not prejudiced by this time extension.

Accordingly, for good cause shown, the Board **GRANTS** an extension of time to Rio Hondo to file its opening brief in NPDES Appeal No. 17-03. The opening brief must be filed on or before Thursday, October 12, 2017.

So ordered.

Dated: August 23, 2017

ENVIRONMENTAL APPEALS BOARD

By: 
Mary Beth Ward
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the forgoing *ORDER GRANTING EXTENSION OF TIME TO FILE OPENING BRIEF* in the matter of City of Ruidoso Downs and Village of Ruidoso WWTP, NPDES Appeal No. 17-03, were sent to the following persons in the manner indicated:

By First Class Mail:

Steven Sugarman
Attorney for Rio Hondo Land & Cattle Company
347 County Road 55A
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Mr. Edmund Kendrick
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By EPA Pouch Mail:

Mr. David Gillespie (MC: 6RC)
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Dated: **AUG 23 2017**



Annette Duncan
Administrative Specialist