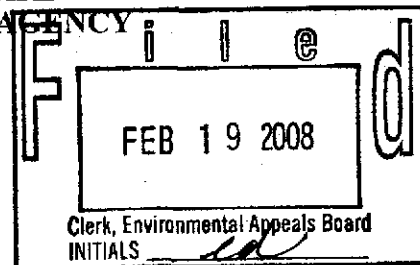


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:

Dry Creek Rancheria

NPDES Permit No. CA-0005241

NPDES Appeal Nos. 07-14 & 07-15

ORDER DENYING MOTION FOR EXTENSION OF TIME

By motion filed on February 15, 2008, the County of Sonoma and the Sonoma County Water Agency ("County"), and the Alexander Valley Association, petitioners in the above-captioned matter, state that they are continuing to engage in settlement negotiations and request that the Board grant a sixth extension of time, until April 18, 2008, for U.S. EPA Region 9 (the "Region") and the Permittee to respond to the petitions for review. Motion for Extension of Time to File Papers Responding to Petitions for Review (Feb. 15, 2008) ("Motion") at 2. The Motion states that "the settlement discussions have grown more complicated over time" but that "the parties have reached preliminary agreement on key terms." The Motion states further that "[t]he Sonoma County Board of Supervisors has reviewed the preliminary terms, and directed the staff to return for consideration of a final agreement at its March 18, 2008 regular session. The parties believe this matter will be resolved on that date, resulting in a withdrawal of the petitions for review shortly thereafter." Motion at 2.

The Board has granted five previous extensions in this matter dating back to July of 2007. In each case, petitioners have represented that settlement negotiations were proceeding in manner that

was likely to result in a negotiated resolution, and that such a resolution was close at hand. Indeed, in the last three motions seeking an extension of time, including the present Motion, petitioners have represented that the requested extension “would be the last extension necessary in this matter.” Motion at 3; *see also* Motion for Extension of Time to File Papers Responding to Petitions for Review (Dec. 13, 2007) at 3; Motion for Extension of Time to File Papers Responding to Petitions for Review (Oct. 29, 2007) at 2.

In the Board’s most recent order, we extended the date for the Region and the permittee to respond to the petitions for review until February 22, 2008. Fifth Order Granting Extension of Time (Dec. 18, 2007) . The Board granted this fifth extension in response to petitioners’ representation that “the negotiation and document drafting are in the final stages and the parties expect to come to a final agreement in January or early February 2008.” Motion for Extension of Time to File Papers Responding to Petitions for Review (Dec. 13, 2007) at 2. In granting the requested extension, the Board stated that “[n]o further extensions would be granted in this matter.” Fifth Order Granting Extension of Time (Dec. 18, 2007) at 2.

Because petitioners have failed to establish good cause for any further extensions, the Motion is hereby DENIED. The Region's response to the petitions for review filed in this matter and any response to the petitions that the permittee wishes to submit, shall be filed with the Board no later than February 22, 2008.¹ The Board will then take the merits of this matter under advisement.²

So ordered.

Dated: FEB 19 2008

ENVIRONMENTAL APPEALS BOARD

By: 

Anna L. Wolgast

Environmental Appeals Judge

¹ Documents are "filed" with the Board on the date they are received.

² The Board encourages the parties to continue with the ongoing settlement discussions and to immediately advise the Board if any final resolution is reached that would result in the withdrawal of the petitions for review.

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Denying Motion for Extension of Time in the matter of Dry Creek Rancheria, NDPEs Appeal Nos. 07-14 & 07-15, were sent to the following persons in the manner indicated:

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Dated: FEB 19 2008



Annette Duncan
Secretary