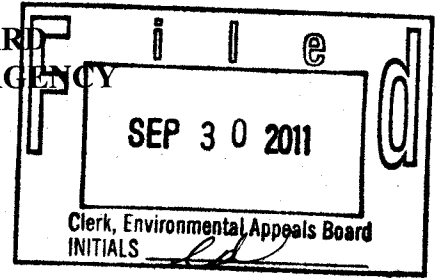


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)

MHA Nation Clean Fuels Refinery)

NPDES Permit No. ND-0030988)

) NPDES Appeal Nos. 11-02,
11-03, and 11-04

**ORDER CONSOLIDATING APPEALS
AND GRANTING MOTION FOR
EXTENSION OF TIME TO FILE RESPONSE**

On September 22, 2011, Region 8 of the U.S. Environmental Protection Agency filed a motion for an extension of time to file responses to three petitions for review of a National Pollutant Discharge Elimination System (“NPDES”) permit issued on August 4, 2011, to the Three Affiliated Tribes (Mandan, Hidasta, and Arikara; collectively, “MHA Nation”). The permit authorizes wastewater and storm water discharges from a proposed new source, called the “MHA Nation Clean Fuels Refinery,” that will be situated on the Fort Berthold Indian Reservation near the Town of Makoti in Ward County, North Dakota. At present, the Region’s response to NPDES Appeal No. 11-02, filed by Mr. James Stafslie, is due on Friday, October 28, 2011, while its responses to NPDES Appeal No. 11-03, filed by the Environmental Awareness Committee, Ms. Jodie White, Ms. Theodora Bird Bear, and Ms. Joletta Bird Bear, and to NPDES Appeal No. 11-04, filed by Pastor Elise Packineau, are due on Monday, October 17, 2011.

The Region requests an extension of approximately two months, through Friday, December 16, 2011, to respond to all three petitions. The Region seeks this additional time to review the purportedly “voluminous” administrative record for this permit, which contains many

lengthy National Environmental Policy Act (“NEPA”) documents and Clean Air Act (“CAA”) air quality analyses in addition to NPDES-specific matters. The Region also seeks additional time to conduct “extensive coordination among multiple [EPA] offices,” which it believes necessary to address the arguments associated with the NPDES, NEPA, and CAA programs. The Region contacted each of the petitioners and reports that none of them oppose the request for an extension. The Region also contacted counsel for the MHA Nation, the permittee, but reports that it has not yet received a response regarding its pending motion.

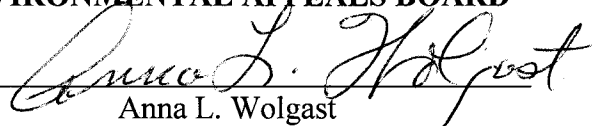
Though the Region does not explicitly seek consolidation of the three pending appeals, the Environmental Appeals Board hereby **CONSOLIDATES** them on its own motion, in the interests of preserving scarce administrative decisionmaking resources and promoting efficiency. The Board also hereby **GRANTS** the Region’s motion for an extension of time, for good cause shown. The Board directs the Region to file one consolidated response to all three pending petitions for review on or before **Friday, December 16, 2011**.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: September 30, 2011

By:



Anna L. Wolgast
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Consolidating Appeals and Granting Motion for Extension of Time to File Response** in the matter of *MHA Nation Clean Fuels Refinery*, NPDES Appeal Nos. 11-02, 11-03, and 11-04, were sent to the following persons in the manner indicated:

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Dated: 9/30/11


Annette Duncan
Secretary