

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

In the Matter of:)	
)	
LIMETREE BAY TERMINALS, LLC)	
LIMETREE BAY REFINING, LLC)	
)	Appeal Nos.: CAA 20-02; CAA 20-03
Permittee)	
)	
Plantwide Applicability Limit)	
Permit No. EPA-PAL-VI001/2019)	
Docket No. EPA-R02-OAR-2019-0551)	

MOTION FOR EXTENSION OF TIME

The Offices in the Environmental Protection Agency (EPA Offices) that developed the PAL Permit at issue in this case respectfully request that the Environmental Appeals Board (EAB) grant a 30-day extension of time, to March 26, 2021, to file a response to the petitions for review filed by Limetree Bay Refining, LLC and Limetree Bay Terminals, LLC (collectively, Permittee Petitioners) and the St. Croix Environmental Association, Center for Biological Diversity, Sierra Club, and Elizabeth Neville (collectively, Environmental Petitioners). The petitions for review regard the Plantwide Applicability Limit (PAL) Permit (No. EPA - PAL - VI-001/2019) issued on December 2, 2020 by then-EPA Administrator Andrew Wheeler to Permittee Petitioners (the PAL Permit).

On December 22, 2020, the EAB granted Environmental Petitioners' motion for a 30-day extension of time to file their petition for review (Environmental Petitioners' Motion). And on December 28, 2020, the EAB granted Permittee Petitioners' motion for a 30-day extension of time to file their petition for review (Permittee Petitioners' Motion). The EAB extended the

filing deadline to February 3, 2021 and both parties filed petitions in a timely manner. EPA Offices now seek the same 30-day extension afforded to those parties.

As the EAB noted in its extension orders, the Board may, for good cause, grant extensions of time to the filing requirements prescribed by the applicable regulations. *See* 40 C.F.R. § 124.19(o). A 30-day extension is warranted in this case for the following reasons.

First, the presidential administration and EPA leadership have changed since the time the PAL permit was issued. EPA staff responsible for preparing a response to the petitions for review need additional time to advise the acting Administrator, the acting Region 2 Administrator, and the acting Administrator of the Office of Air and Radiation about the nature of the PAL permit, the disputed issues in the matter, and options for responding to the petitions for review.

Second, on January 25, 2021, President Biden issued Executive Order 13,990, *Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis*, 86 Fed. Reg. 7037 (EO 13990). This Executive Order directed federal agencies to “immediately review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (agency actions) promulgated, issued, or adopted between January 20, 2017, and January 20, 2021, that are or may be inconsistent with, or present obstacles to” the policy objectives set forth in the order. The decision to issue the PAL Permit to Permittee Petitioners was based in part on a decision to discontinue applying a longstanding EPA policy under the New Source Review (NSR) permitting program. In light of this, providing an additional 30 days for EPA Offices to review this action is appropriate under EO 13990. This additional time is needed for the incoming EPA leadership to review whether this and other aspects of the permitting decision

are consistent with the policies adopted by the President before EPA Offices file a response to the petitions for review.

This extension request also meets the requirement in 40 C.F.R. § 124.19(g) that parties file extension requests “sufficiently in advance of the due date to allow other parties to have a reasonable opportunity to respond to the request[.]” The Environmental Petitioners’ Motion was filed exactly two weeks before their petition was due, while Permittee Petitioners’ Motion was filed less than two weeks before their due date. Here, EPA Offices, like the Environmental Petitioners with their motion, have filed this motion exactly two weeks before the February 24, 2021 deadline for the response to the petitions for review.

Moreover, a 30-day extension does not prejudice the interests of the petitioners. As the EAB noted in its December 28, 2020 Order, Permittee Petitioners, in addition to seeking remand of the PAL Permit, have already affirmed that they “can operate without the PAL permit and are not prejudiced by a 30-day extension.” EAB Order at 3 (quoting Permittee Petitioners’ Motion at 2). The Environmental Petitioners have similarly petitioned the EAB to remand the PAL Permit and they also request that the EAB vacate the permit. Thus, the interests of the petitioners would not be prejudiced by the EAB granting EPA Offices’ motion.

For the foregoing reasons, there is good cause to grant a 30-day extension, until March 26, 2021, for EPA Offices to submit a response to the petitions for review. Counsel for EPA Offices have conferred with counsel for both sets of petitions regarding this motion, and no party has conveyed opposition to the requested extension.

Respectfully Submitted,

/ s/ _____

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CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2021, the foregoing was filed electronically with the Clerk of the Environmental Appeals Board using the EAB eFiling System, and was served on the following by electronic mail:

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