

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

In the Matter of:	)	
	)	
Vickery Environmental, Inc.	)	
Vickery, Ohio	)	
	)	Appeal No.: RCRA 19-01
Permittee	)	
	)	
Final RCRA Permit	)	
Docket No. OHD 020 273 819	)	
	)	

**SECOND JOINT MOTION FOR EXTENSION OF TIME**

The United States Environmental Protection Agency Region 5 (EPA) And Vickery Environmental, Inc. (“the Parties”) jointly request that the Environmental Appeals Board (“EAB”) grant a second 60-day extension of time in the above-captioned matter for EPA to file its response brief to the Petition for Review (Petition), filed on behalf of Vickery Environmental, Inc. (Vickery, Petitioner), a certified index administrative record and relevant portions of the record. This extension request would move the due date from January 7, 2020 to March 7, 2020.

**BACKGROUND**

1. On September 12, 2014, Vickery applied for a hazardous waste management permit under the Resource Conservation and Recovery Act (RCRA). On October 5, 2018, EPA issued a draft RCRA permit to Vickery and provided an opportunity for 45 days of public comment. EPA responded to the public comments and issued the final RCRA permit on September 6, 2019.
2. The effective and expiration dates of the EPA’s RCRA permit are October 10, 2019 and October 10, 2029, respectively.
3. On October 7, 2019, Petitioner timely filed with the EAB a Petition of the final hazardous waste permit issued to Petitioner under RCRA. This Petition was assigned Appeal No. RCRA 19-01.
4. On October 23, 2019, EPA issued to the EAB, the Applicant, and interested parties a Notification

concerning the Appeal of the Federal RCRA Permit for Vickery, Docket Number OHD 020 273 819. This letter notified the EAB, the Applicant, and interested parties of the contested permit conditions, and that such permit conditions will be stayed and be subject to judicial review pending final agency action in accordance with 40 C.F.R. § 124.16.

5. Pursuant to 40 C.F.R. § 124.19(b)(2), "the Regional Administrator must file a response to the Petition, a certified index of the administrative record, and the relevant portions of the administrative record within 30 days after the filing of the petition." Therefore, the Region's response brief and a certified index of the administrative record, and the relevant portions of the administrative record was due on November 6, 2019.

6. On October 29, 2019, the parties filed a joint motion for extension of time, to allow for discussions regarding technical questions concerning facility operation and unit configuration.

7. On November 1, 2019, in response to the parties' joint motion, the EAB granted EPA a 60-day extension to file a response brief, until January 7, 2020.

8. Pursuant to the terms of the EAB's November 1, 2019, Order, EPA timely filed a certified index of the administrative record with the EAB, copying the Petitioner, on November 18, 2019.

#### **GROUND FOR JOINT MOTION**

As grounds for the joint motion, the Parties state the following:

9. On October 29, 2019, EPA sent to Vickery a list of technical questions related to the provisions subject to Vickery's Petition. On November 20, 2019, Vickery submitted answers and documentation in response to EPA's list of technical questions.

10. The EPA staff assigned to the permit, Jae Lee, Environmental Engineer of the Land, Chemicals and Redevelopment Division, was out of the country on annual leave from November 15, 2019, to December 9, 2019.

11. Upon Mr. Lee's return from annual leave, EPA reviewed Vickery's response to EPA's technical questions, and sent follow-up questions to Vickery on December 12, 2019. Vickery made an initial response to these follow-up questions on December 17, 2019, and the parties had a conference call to

discuss remaining issues on December 20, 2019.

12. The Parties agree that discussions thus far have been productive towards clarifying facility operations and potentially resolving matters subject to Vickery's Petition. Additional time to conclude these discussions between EPA and Vickery will better allow for EPA to provide an adequate response to Vickery's Petition and ensure that complete information is used for consideration and potential resolution of issues relating to appealed provisions of the permit. This information exchange and discussions regarding provisions subject to the Petition will further ensure that only genuine issues of dispute are submitted to the EAB for adjudication.

13. Issues raised in the Petition, as well as any potential resolutions to matters before the EAB, require full consideration by Regional management as well as consultation with EPA Headquarters, including EPA's Office of General Counsel (OGC). EPA Region 5 represents that it is currently consulting with EPA's Office of General Counsel and the Office of Land and Emergency Management, and those offices concur with this Motion.

Accordingly, the Parties respectfully request that the EAB grant an extension of time to file the EPA's response brief, and the relevant portions of the administrative record, for 60 days, to March 7, 2020.

**JOINT MOTION FOR SECOND EXTENSION OF TIME In the Matter of Vickery  
Environmental, Inc., Appeal No.: RCRA 19-01, Docket No. OHD 020 273 819**

Respectfully Submitted,

/s/ Thomas J. Martin

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**CERTIFICATE OF SERVICE**

I hereby certify that the original of this **JOINT MOTION FOR SECOND EXTENSION OF TIME In the Matter of Vickery Environmental, Inc., Appeal No.: RCRA 19-01, Docket No. OHD 020 273 819** was filed electronically with the Board.

Further, I hereby certify that I caused a copy of this **JOINT MOTION FOR SECOND EXTENSION OF TIME In the Matter of Vickery Environmental, Inc., Appeal No.: RCRA 19-01, Docket No. OHD 020 273 819**, to be served by electronic mail upon the Petitioner, as listed below.

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Dated: [ December 23, 2019 ]

/s/ Thomas Martin  
Thomas Martin  
Associate Regional Counsel

