

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC**

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<i>In re</i> Final RCRA Permit for)	
)	
Evoqua Water Technologies LLC and)	
Colorado River Indian Tribes)	RCRA Appeal No. RCRA 18-01
2523 Mutahar Street)	
Parker, Arizona 85344)	
)	
EPA RCRA ID No. AZD982441263)	
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**EVOQUA WATER TECHNOLOGIES LLC’S AND
COLORADO RIVER INDIAN TRIBES’ SECOND JOINT MOTION
TO EXTEND DEADLINE FOR POST-HEARING BRIEFS AS TO ISSUE 1**

Per 40 C.F.R. § 124.19(f), (g), Evoqua Water Technologies LLC (“*Evoqua*”) and the Colorado River Indian Tribes (“*CRIT*”) respectfully move for a second extension of their deadline to respond to EPA Region IX’s (the “*Region’s*”) April 16 post-hearing brief only as to the first of the three issues addressed by the Region: *Does the Permit require both Permittees to sign requests for modifications of the Permit?* For the reasons set forth below, Evoqua and CRIT respectfully request that their deadline for briefing this issue be extended from May 13 to **May 28**.

GROUND FOR REQUESTED EXTENSION

At the close of the April 9 oral argument in this matter, the Board asked the Region to brief three questions, the first of which was: *Does the Permit require both Permittees to sign requests for modifications of the Permit?* The Region submitted its post-hearing brief addressing this question (and the other two questions raised by the Board) on April 16. Per the briefing schedule set by the Board at the close of the April 9 oral argument, Evoqua’s and CRIT’s responses to the Region’s post-hearing brief were due April 23.

On April 23, Evoqua and CRIT submitted their first joint motion to extend the briefing deadline as to this first issue. That motion was granted by the Board's order of April 24, extending the briefing deadline to May 13. At the time of their April 23 joint motion, Evoqua and CRIT had an agreement in principle on a protocol for permit modification submittals to address the signatory concerns raised by both parties. That agreement in principle – the protocol – has evolved over time following ongoing discussions among the parties. All three parties – Evoqua, CRIT, and the Region – discussed the draft protocol on May 3. Since then, Evoqua and CRIT have continued to negotiate a revised draft protocol.

Due to the ongoing negotiations, the parties did not have agreement on a proposed protocol to present to the CRIT Tribal Council for approval at the time of the Tribal Council's May 9 meeting. Accordingly, before briefing the Board on the parties' agreement, Evoqua and CRIT request additional time to (1) present a draft protocol to the CRIT Tribal Council for approval and (2) discuss the revised protocol with the Region. The CRIT Tribal Council's next meeting is May 20, 2019. Prior to that meeting, Evoqua and CRIT will endeavor to discuss the revised protocol with the Region in an effort to reach unanimity among the three parties on a workable protocol for permit modification submittals.

PRAYER

For the foregoing reasons, Evoqua and CRIT respectfully request that their deadline for briefing the Board's first question, regarding required signatories to permit modification submittals, be extended from May 13 to **May 28**. If the parties can negotiate a mutually satisfactory protocol for such submittals, Evoqua and CRIT will notify the Board in advance of May 28 to avoid the need for further briefing and a ruling on this issue.

CERTIFICATE OF CONFERENCE

Per 40 C.F.R. § 124.19(f)(2), counsel for Evoqua conferred with counsel for the Region and counsel for the Region advised that the Region supports this motion.

STATEMENT OF COMPLIANCE WITH WORD LIMITATION

Undersigned counsel for Evoqua hereby certifies that this motion complies with the word limit of 40 C.F.R. § 124.19(f)(5) because this motion contains 541 words.

Date: May 10, 2019

Respectfully submitted,

/s/ Bryan J. Moore

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion has been served on the following parties via the following method on this 10th day of May 2019:

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U.S. EPA, Environmental Appeals Board

/s/ Bryan J. Moore
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