

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

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In re:	)	
	)	
MHA Nation Clean Fuels Refinery	)	NPDES Appeal Nos. 11-02, 11-03, and 11-04
	)	
NPDES Permit No. ND-0030988	)	
	)	

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**MHA NATION’S MOTION TO WITHDRAW MOTION TO DISMISS APPEAL**

COMES NOW Intervenor-Permittee, the Mandan, Hidatsa and Arikara Nation of the Fort Berthold Reservation (“MHA Nation”), by and through its undersigned counsel, and submits its Motion to Withdraw Motion to Dismiss Appeal (“Motion”), and, in support thereof, states as follows:

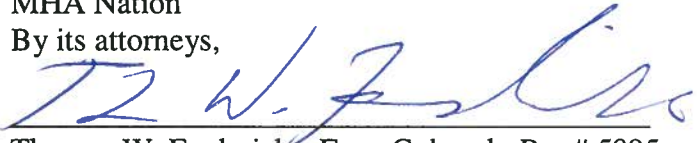
For the foregoing reasons, MHA Nation’s Motion to Dismiss should be withdrawn from the docket in the above-captioned matter.

1. MHA Nation filed the Motion to Dismiss on December 6, 2011.
2. MHA Nation attempted to confer with the U.S. Environmental Protection Agency Region 8 (“EPA”) regarding whether the appeal was untimely or not during the weeks of November 28, 2011 and December 5, 2011 to no avail.
3. Minutes after filing the Motion, MHA Nation received a telephone call from EPA explaining that the deadline had been extended. Although we find it questionable whether the deadline was extended to September 9 or September 12, 2011, we recognize that EPA’s interpretation of its regulations will be given deference.
4. As such, because EPA finds that the Environmental Awareness Committee’s Motion was timely filed and takes no issue with the timeliness of the filing, we request to withdraw the

Motion to Dismiss, as it appears to be in error. MHA Nation hereby respectfully withdraws its Motion to Dismiss.

Dated this 6<sup>th</sup> day of December, 2011.

MHA Nation  
By its attorneys,



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of December, 2011, a copy of the foregoing **MHA NATION'S MOTION TO WITHDRAW MOTION TO DISMISS APPEAL** was sent via U.S. Mail, postage paid, to the following parties:

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