

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

In re: MHA Nation Clean Fuels
Refinery

Appeal Numbers: NPDES 11-02
NPDES 11-03
NPDES 11-04

Permit Number: ND-0030988

MOTION FOR EXTENSION OF TIME TO RESPOND

The U. S. Environmental Protection Agency (“EPA”) Region 8 respectfully requests that the Environmental Appeals Board (“EAB” or “Board”) grant an extension of time until December 16, 2011 to file its response, including the relevant parts of the administrative record, to the separate Petitions for Review filed in the above-captioned matter by (1) James Stafslie; (2) Sparsh Khandeshi, Attorney for the Environmental Integrity Project, on behalf of the Environmental Awareness Committee, Jodie White, Theodora Bird Bear and Joletta Bird Bear (herein after “EAC”); and (3) Pastor Elise Packineau. On September 13, 2011, the EAB issued a letter requesting the response to Mr. Stafslie’s Petition by October 28, 2011. On September 15, 2011, the EAB issued its letter requesting the response to the EAC’s petition by October 17, 2011. On September 21, 2011, the EAB issued its letter requesting the response to Pastor Elise Packineau’s petition by October 17, 2011.

Region 8 seeks this additional time based on a number of factors that will make it very difficult to provide an adequate response brief within the time provided in the EAB’s letters. The National Pollutant Discharge Elimination System (NPDES) permit at issue in these petitions is a “new source” NPDES permit. Unlike other NPDES permits,

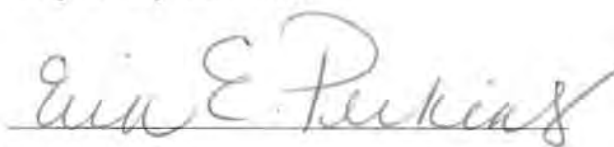
“new source” permits require compliance with the National Environmental Policy Act (NEPA) in accordance with Clean Water Act (CWA) Section 511(c)(1) prior to issuance of the permit. EPA has been involved in the project for more than eight years and the administrative record consists of many documents including those documents related to the NPDES permit development, NEPA scoping, Draft Environmental Impact Statement, Final Environmental Impact Statement and Supplemental Information Report. As a result, the administrative record associated with this decision is voluminous. This will require extensive review time to ensure an appropriate consideration of and response to the petitions. In addition, responding to the petitions will require extensive coordination among multiple offices within the Agency to address not only the issues associated with the actual NPDES discharge, but also those related to the issues covered in the NEPA review and raised in the EAC petition including allegations raising Clean Air Act – related issues. Finally, responding to all petitions at the same time will conserve Agency resources and allow a more efficient response.

The Region has contacted all Petitioners, as well as the permittee, to inform them of the Region’s intent to seek an extension of time. Sparsh Khandeshi, on behalf of EAC, Jodie White, Theodora Bird Bear and Joletta Bird Bear stated that his clients do not oppose the extension. Mr. Stasflien stated that he does not oppose the extension. Pastor Elise Packineau stated that she does not oppose the extension. The Region has not yet received a response to the voicemail message left for Mr. Tom Fredericks, attorney for the permittee, regarding the motion for extension of time.

For the reasons set forth above, EPA Region 8 respectfully requests the EAB grant the Region’s Motion for Extension of Time to Respond and extend the deadline for the Region’s response to the pending Petitions for Review in the above-captioned matter until December 16, 2011.

9/22/11
Date

Respectfully submitted,



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Certificate of Service

I, Tina Artemis, hereby certify that a true and correct copy of the Motion for Extension of Time In re: MHA Nation Clean Fuels Refinery NPDES Appeal Nos. 11-02, 11-03, and 11-04 was sent to the persons listed below on September ~~22~~, 2011.

Via the Central Data Exchange and Overnight mail to:

Clerk of the Board
United States Environmental Protection Agency
Environmental Appeals Board
Colorado Building
1341 G Street, N.W.
Suite 600
Washington, D.C. 20005

Via U.S. Mail

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Louisville, CO 80027

Mr. Sparsh Khandeshi
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Pastor Elise Packineau
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Mr. James Stafslie
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9 22 2011
Date

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