

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

In re:

City and County of San Francisco

NPDES Permit No. CA0037681

Appeal No. NPDES 20-01

**SAN FRANCISCO'S UNOPPOSED MOTION
FOR EXTENSION OF TIME**

Petitioner, the City and County of San Francisco ("San Francisco"), hereby requests that the Environmental Appeals Board ("EAB" or "Board") grant an additional nine-day extension of time for San Francisco to file its reply in support of the Supplement to Petition for Review. Under the proposed extended deadline, briefing will be complete on or before August 21, 2020. Additional time is needed for the briefing schedule because San Francisco has not yet finalized its retention of its new outside counsel, as the process of clearing conflicts is taking longer than anticipated. This Motion also serves as the update as to the status of San Francisco's efforts to retain new outside counsel required by the Board's July 7, 2020 Order (Dkt. No. 22 at 3).

San Francisco has consulted with counsel for Respondent United States Environmental Protection Agency ("EPA") Region 9 prior to filing this Motion. EPA does not oppose an extension until August 21, 2020 for San Francisco to file its reply brief. San Francisco's explanation and justification for the extension are set forth below:

1. On June 18, 2020, the Board issued an Order Denying Motion for Reconsideration and Granting Petitioner Leave to Supplement Petition for Review, with Limitations (Dkt. No. 18).

The Order granted San Francisco leave to supplement its Petition for Review and set the following briefing schedule and requirements:

San Francisco's supplement to its petition, if any, may be no more than 10,000 words and must be filed no later than June 30, 2020. The Region's response to San Francisco's supplemental petition, if any, may be no more than 10,000 words and must be filed no later than July 13, 2020. San Francisco may file a reply of no more than 5,000 words no later than July 20, 2020.

Dkt. No. 18 at 6-7.

2. As soon as reasonably possible, San Francisco informed EPA that its outside counsel, Hunton Andrews Kurth LLP, would no longer be representing San Francisco in this appeal beginning July 1, 2020. San Francisco consulted with counsel for EPA regarding an extension of time to provide San Francisco time to engage new outside counsel.
3. On June 30, San Francisco and EPA filed a Joint Motion for Extension of Time (Dkt. No. 21). Among other things, the Joint Motion requested a ten-day extension for EPA's response brief, and a ten-day extension for San Francisco's reply brief.
4. On July 7, 2020, the Board issued an Order Granting Extension of Time, Scheduling Oral Argument, and Directing Parties To Provide Notice of Participation (Dkt. No. 22). This Order granted the requested ten-day extensions for EPA's response brief and San Francisco's reply brief and also required that San Francisco submit an update as to the status of its efforts to retain new outside counsel by August 3, 2020 if no new counsel had entered an appearance by that time. The Board established the following briefing schedule:
 - The Region must file its response to the Supplemental Petition on or before July 23, 2020.
 - San Francisco must file its reply to the Region's Response to the Supplemental Petition on or before August 12, 2020.

Dkt. No. 22 at 2.

5. The Region filed its Response to San Francisco's Supplement to Petition for Review on July 23, 2020 (Dkt. No. 23).

6. San Francisco has worked diligently in an effort to promptly finalize the retention of its new outside counsel. However, as of the date of this Motion, its new outside counsel is continuing its efforts to clear conflicts. As such, San Francisco's new counsel is not yet under contract and cannot perform work on San Francisco's behalf. In light of these circumstances, which are beyond San Francisco's control, San Francisco needs additional time to finalize retention of its new outside counsel and to ensure that the new attorneys have adequate time to prepare and submit the reply brief.
7. The proposed briefing schedule would extend the deadline for San Francisco's reply in support of the Supplement from August 12, 2020 to August 21, 2020.

For the reasons described above, San Francisco respectfully requests that the Board grant this Motion for Extension of Time and extend the deadline for San Francisco to file its reply in support of the Supplement to Petition for Review on or before August 21, 2020.

July 30, 2020

Respectfully submitted,

Attorneys for San Francisco

/s/ Estie M. Kus

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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2020, a true and correct copy of the foregoing Unopposed Motion for Extension of Time was filed electronically using the EAB eFiling system and served on counsel for EPA at the following email addresses: Dustin Minor - Minor.Dustin@epa.gov, Marcela Vonvacano - Vonvacano.Marcela@epa.gov, Pooja Parikh – Parikh.Pooja@epa.gov, Peter Ford - Ford.Peter@epa.gov, Jessica Zoomer - Zomer.Jessica@epa.gov.

/S/ Estie M. Kus

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