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

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In re: Final RCRA Permit for Evoqua Water Technologies, LLC and Colorado River Indian Tribes 2523 Mutahar Street Parker, Arizona 85344 EPA RCRA ID No. AZD982441263

Appeal No. RCRA 18-01

US EPA REGION IX'S MOTION FOR AN ADDITIONAL EXTENSION OF DEADLINE TO FILE SUPPLEMENTAL BRIEFS RESPONDING TO THE BOARD'S QUESTIONS

The United States Environmental Protection Agency, Region IX (the Region) hereby requests and moves for an additional extension of time for the Parties (*i.e.*, the Region, Petitioner Evoqua Water Technologies, LLC [Petitioner] and Co-Permittee the Colorado River Indian Tribes [CRIT]) to file Supplemental Briefs in accordance with the Environmental Appeals Board's (the Board's) December 14, 2018 Order For Further Briefing On Evoqua's Motion For Stay Of Permit Provisions Pending Board Review (12-14-2018 Order), as amended by its Orders dated December 20, 2018 and January 29, 2019.¹

The extension would move the date by which the Parties must file the requested Supplemental Briefs out a total of two additional weeks, from February 11, 2019 to February 25, 2019. As grounds for this Motion, the Region states the following:

¹ See the Board's Order Extending Deadline for Further Briefing on Motion for Stay of Permit Provisions Pending Board Review (#22) and Second Order Extending Deadline for Further Briefing on Motion for Stay of Permit Provisions Pending Board Review (#25).

- The Region hereby incorporates the reasons set forth in its previously filed Motion for an Extension of the Deadline to File Supplemental Briefs Responding to the Board's Questions (#19), filed December 18, 2018.
- 2. The Board's 12-14-2018 Order included the requirement that the Region consult with the Office of General Counsel (OGC), and the Region has done so. However, OGC has today requested that the Region seek an additional two-week extension of time from the Board so that OGC may ensure that the Region's responses to the Board's questions "reflect the Agency's views." See, the 12-14-2018 Order.
- 3. The Region appreciates that there is a significant amount of work being undertaken within OGC as a result of the recent federal government shutdown. This workload, coupled with the careful consideration both the Region and OGC believe is due the Board's questions, make this late request regrettable but necessary.
- On February 7, 2019, counsel for the Region received an email message from Petitioner's counsel, indicating that the Petitioner opposes this Motion and the two-week additional extension sought.
- 5. On February 7, 2019, counsel for the Region received an email message from CRIT's counsel, indicating that CRIT does not oppose this Motion or the two-week additional extension sought.
- 6. In addition, the Region will be willing to conduct additional conferences with Petitioner and CRIT if any of the Region's previous representations to the other Parties as to the

Region's analysis of the questions posed by the Board change as a result of any further discussions with OGC prior to the requested extended deadline of February 25, 2019.²

 Accordingly, the Region respectfully requests that the Board grant an additional twoweek extension of time to file Supplemental Briefs answering the questions identified in the Board's 12-14-2018 Order, to February 25, 2019.

Statement of Compliance with the Word Limitation

Undersigned counsel for the Region hereby certifies that this Motion complies with the word limit of 40 CFR 24.19(f)(5) because this Motion contains less than 7,000 words.

Respectfully submitted,

/S/

Date: _____ 2/7/2019

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² The parties engaged in a conference on February 5, 2019 as directed in the 12-14-18 Order. During the conference, the Region, CRIT and Petitioner compared their respective responses to the Board's questions. At that time, the Region presented its analysis on each of the Board's questions. For each question posed, the Region presented the position it had developed based on the Region's initial consultation efforts with OGC.

CERTIFICATE OF SERVICE

I hereby certify that, on behalf of the United States Environmental Protection Agency, Region IX, a true and correct copy of the foregoing "US EPA Region IX's Motion For An Additional Extension Of Deadline To File Supplemental Briefs Responding To Board's Questions," has been served on the following parties via the following methods on this 7 day of February 2019:

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Clerk of the US EPA Environmental Appeals Board (EAB):

Eurika Durr, Clerk US Environmental Protection Agency Environmental Appeals Board

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2/07/2019 Date

Service on the Clerk of the EAB is made via the EAB's electronic filing system at <u>https://yosemite.epa.gov/OA/EAB/EAB-</u><u>ALJ_Upload.nsf/HomePage?ReadForm</u> in accordance with 40 CFR § 124.19.

Service on counsel for Petitioner Evoqua Water Technologies, LLC is made via electronic mail in accordance with 40 CFR § 124.19. Counsel for Co-Permittee and beneficial landowner, the Colorado River Indian Tribes:

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