

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

_____)	
In re:)	
)	NPDES Appeal No. 20-05
Granite Shore Power Merrimack LLC)	
)	
NPDES Permit No. NH0001465)	
_____)	

**CONSENT MOTION FOR EXTENSIONS OF TIME
TO RESPOND TO MOTION TO STRIKE AND TO REPLY TO RESPONSE**

Sierra Club, Inc. and Conservation Law Foundation, Inc. (“Petitioners”) hereby respectfully move the Environmental Appeals Board (“Board”) for an extension of time until October 26, 2020, for them to respond to the *EPA Region 1 Motion to Strike Petitioners’ Attachments 36 - 41 to the Petition for Review* (Dkt. # 12; hereinafter, “Motion to Strike”). The requested deadline of October 26, 2020 is the same date as Petitioners’ deadline for filing its reply brief on the merits. The Region consents to the requested extension, and the Region requests that its deadline to reply to Petitioners’ response to the Motion to Strike be extended to November 16, 2020. Petitioners consent to that request.

BACKGROUND

1. On June 16, 2020, the Board issued an order granting a consent motion and establishing the follow briefing schedule: Petition for Review due July 27, 2020; Oppositions due September 25, 2020; Reply due October 26, 2020. See *Order Granting Consent Motion for Extension of Time and an Increase Word Limits and Notifying the Parties of Electronic Service* (Dkt. #3).
2. On July 27, 2020, Petitioners filed their Petition for Review and 43 attachments (Dkt. ## 4, 5).

3. On September 25, 2020, the Region (and the Permittee) filed their oppositions to the Petition for Review.

4. On that same date, the Region also filed the Motion to Strike. (Dkt. # 12).

REASONS FOR GRANTING THE REQUESTED EXTENSIONS

40 C.F.R. § 124.19(f) provides 15 days for responses to motions and 10 days for replies, unless extended by the Board. Petitioners respectfully request that they be permitted to file their opposition to Motion to Strike on the same date that they file their reply brief on the merits, i.e., October 26, 2020. This will allow them to better coordinate their briefing of the procedural issue of whether the Board should consider Attachments 34 to 41 with their briefing of the substantive issue to which the attachments relate. It would also allow the Region to review Petitioners' reply brief before preparing their reply to Petitioners' response to the Motion to Strike. The Region also needs additional time beyond the standard 10 days for it to prepare and file its reply to the response. As noted, the Region and Petitioners consent to each other's request. This is the first request for an extension of these deadlines.

CONCLUSION

For these reasons, Petitioners respectfully request that that the Board issue an order establishing the following extended deadlines:

<u>Filing</u>	<u>Due Date</u>
Petitioners' Response to Motion to Strike	Monday, October 26, 2020
Region's Reply to Response	Monday, November 16, 2020

Dated: September 30, 2020

Respectfully Submitted,

/s/ Reed W. Super
Reed W. Super

SUPER LAW GROUP, LLC
180 Maiden Lane, Suite 603
New York, NY 10038
212-242-2355, ext. 1
855-242-7956 (fax)
reed@superlawgroup.com

*Attorneys for Petitioners
Sierra Club, Inc. and Conservation
Law Foundation, Inc.*

CERTIFICATE OF SERVICE

I, Reed W Super, hereby certify that on September 30, 2020, I caused to be served a true and correct copy of the foregoing motion to the following by email and through the EAB's e-filing system:

For EPA

Mark Stein, Esq.
Assistant Regional Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912
stein.mark@epa.gov

Steve Neugeboren, Esq.
Associate General Counsel
OGC-Water Law Office
1200 Pennsylvania Ave. NW
MC-2355A
Washington, DC 20460
neugeboren.steven@epa.gov

For Granite Shore Power Merrimack LLC

P. Stephen Gidiere III, Esq.
Balch & Bingham LLP
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203-4642
SGidiere@balch.com

/s/ Reed W. Super
Reed W. Super