

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

_____)	
In re:)	
)	
Florence Copper, Inc.)	
)	Appeal Nos. UIC 17-01; UIC 17-02;
UIC Permit No. R9UIC-AZ3-FY11-1)	UIC 17-03.
)	
_____)	

**REGION IX's UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE
RESPONSES**

The United States Environmental Protection Agency (EPA) Region 9 (“Region”) requests the Environmental Appeals Board (“EAB” or “Board”) grant the Region an extension of time to respond to Permit Appeals 17-01, 17-02 and 17-03 of the Class III Underground Injection Control (UIC) permit issued on December 21, 2016 to Florence Copper Inc. (FCI). For the reasons detailed below, the Region respectfully requests an extension of time to April 7, 2017 for the Region to file comprehensive responses to the three Petitions for Review filed in the above captioned matter.

On January 17, 2017 the Region received an electronic message containing a letter (without attachments) from Mr. John Anderson, which was filed with the Board (Permit Appeal UIC-01) on January 12, 2017, and which raised several issues regarding the Florence Copper UIC permit (“Anderson Petition”). The Region is aware that the Board docketed two other Petitions for Review on the same permit on January 19, 2017 from the Gila River Indian

Community (GRIC) (Permit Appeal UIC-02), and joint petitioners Southwest Value Partners (SWVP) and the Town of Florence (Permit Appeal UIC-03).

Pursuant to the regulations for appeals of UIC permits, the Region is required to file a response to a petition, along with a certified index of the administrative record, and relevant portions of the administrative record within 30 days after the filing of a petition. See 40 C.F.R. § 124.19(b)(2). In accordance with the regulations for appeal, the Region's response to the Anderson Petition must be filed by February 13, 2017 and the GRIC and Town of Florence/SWVP Petitions by February 21, 2017 (due to the occurrence of President's Day holiday on February 20, 2017).

The substantively complex, substantial, distinct, and varied range of issues raised in the three Petitions for Review filed in this matter require careful consideration by the Region, including the analysis and inclusion of technical arguments. The requested additional time for the Region to prepare and file the responses will help to ensure that the relevant facts and issues are fully vetted and presented to the EAB as it considers the petitions. Preparation of the Region's responses to these Petitions will also require consultation and coordination by the Region with various offices within EPA Headquarters that have an interest in the matters raised in the petitions, including EPA's Office of General Counsel. In addition, with the arrival of a new administration at EPA, review and briefing of these matters will require additional time for the Region's response to the Board and present unusual circumstances given that the petitions were filed during or immediately before an administrative transition. For these reasons, the Region requests an extension of time to April 7, 2017 to file responses to the petitions with the Board.

The Region also notes that EPA recently finalized a rule revising the EPA's procedures governing permit appeals under 40 C.F.R. Part 124. See 82 Fed. Reg. 2230 (Jan. 8, 2017). In

this rule, the regulation specifying the timeframe for the Region's response to the petition was changed from 30 days after a petition is *filed* to 30 days after a petition is *served* in order to provide "appropriate notice of the petition for review in advance of the deadline for a response." See 82 Fed. Reg at 2233. The Region has not yet received service via mail carrier of the GRIC and Town of Florence/SWVP Petitions and related attachments. In addition, the Region notes that Mr. Anderson has not served the Region with a complete copy of his petition because his electronic message of January 18, 2017 did not include referenced attachments. Unfortunately, notice of the Anderson Petition (with the incomplete copy of the petition) was not provided until the electronic message of January 18, 2017, six days after the petition was filed with the Board. While the final rule referenced is not effective until March 10, 2017, the Region respectfully requests that the Board consider applying the intent of this rule and allow for an extension of time for thoughtful and considered responses to the issues raised by petitioners.

The Region represents that each of the Petitioners do not oppose this Motion for Extension for the Region's Responses to April 7, 2017. (See Attachment 1, attached hereto). Further, the Region expects to issue a Notice of Stayed Permit Conditions shortly, in accordance with 40 C.F.R. 124.16(a), which would stay the contested permit conditions pending final agency action from the Board. As a result, an extension of time for the Region's responses would not prejudice petitioners. The Region believes that this extension will allow for comprehensive responses to the Petitions for Review.

The Region would also like to inform the Board that all Petitioners in this matter have agreed to accept service of filings by electronic mail only, with no hard copy service by mail or similar means.

In conclusion, the Region respectfully requests the Board allow for an extension of time to April 7, 2017 for the Region to file its responses to the three Petitions for Review, and would appreciate the Board's attention to this matter at the Board's earliest convenience.

Date: January 25, 2017

Respectfully submitted,

/s/ Alexa Engelman

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CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the attached **MOTION FOR EXTENSION OF TIME TO FILE RESPONSES** to be served by electronic mail upon the persons listed below.

Dated: January 25, 2017

/S/ Alexa Engelman

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