

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

_____)	
In re:)	
)	NPDES APPEAL No. 17-03
City of Ruidoso Downs and)	
Village of Ruidoso WWTP)	
)	
NPDES Permit No. NM 0029165)	
_____)	

**JOINT MOTION BY ALL PARTIES FOR AN EAB ORDER ESTABLISHING A
REVISED BRIEFING SCHEDULE AND JOINT NOTICE BY ALL PARTIES OF
AGREEMENT TO ELECTRONIC SERVICE BETWEEN ALL PARTIES**

All of the parties who are interested in this Petition for Review, Respondent, The United States Environmental Protection Agency Region 6 (“EPA Region 6”), the City of Ruidoso Downs and Village of Ruidoso WWTP (collectively “Ruidoso”), and Petitioner Rio Hondo Land & Cattle Company (“Rio Hondo”), hereby respectfully move the Environmental Appeals Board (“Board”) to issue an Order for a revised briefing schedule in this matter. The procedural history of this matter is as follows:

1. On July 25, 2017, EPA Region 6 issued the NPDES permit which is the subject of this proceeding (2017 permit).

2. On August 22, 2017, Rio Hondo filed a timely Petition for Review of the 2017 permit concurrently with a filing of an Unopposed Motion for Extension of Time to file its opening brief.
3. On August 23, 2017, the Board issued an Order Granting Extension of Time to File Opening Brief, granting Rio Hondo's request for an extension.
4. On October 12, 2017, Rio Hondo filed a Memorandum Brief in Support of Petition for Review within the time provided by the Board's Order.
5. A revised briefing schedule for the remaining briefs to be filed in this matter, as provided below, is hereby requested by EPA Region 6, Ruidoso, and Rio Hondo ("all parties").

All parties have conferred and are in agreement that it would be beneficial to all parties, and result in no prejudice to any party, if there was a revised schedule for the filing of briefs in this matter.

In support of this motion, the parties provide the following considerations. EPA Region 6 supports this joint motion because the issues raised by this petition concern matters central to the agency's implementation nationally of the National Pollutant Discharge Elimination System (NPDES) program (including specifically, "anti-backsliding" under the Clean Water Act) and therefore require close consultation and coordination with the EPA Office of Water and the EPA Office of General Counsel; this additional time would allow for a better opportunity to coordinate these efforts; plus, EPA Region 6 is concerned that its ability to adequately ensure this consultation and coordination would be significantly constrained by the current deadline for EPA Region 6's response. Ruidoso supports this joint motion because this briefing schedule would also provide additional time to coordinate resources, consult with appropriate entities, and complete work on its responsive filing. Counsel for Rio Hondo supports this motion because no party will be adversely affected by the proposed revision to the briefing schedule and because

EPA Region 6 has agreed to an adjustment of the due date for the reply memorandum which is necessitated by the requested extension in the due date for response memoranda.

Under the regulation governing permit appeals, the Board may, for good cause, grant extensions of time to the filing requirements prescribed by this regulation. 40 C.F.R. § 124.19(n). In light of the good cause demonstrated above, all parties hereby request that the Board issue an Order granting this motion and establishing the following revised briefing schedule (containing extensions of time for each filing) as follows:

1. Respondent EPA Region 6 and Ruidoso will both file their responses to Rio Hondo's Memorandum Brief in Support of Petition for Review by January 18, 2018.
2. Rio Hondo will file its reply to the EPA Region 6 and Ruidoso responses by March 3, 2018.

In addition, all parties hereby provide notice to the Board that they have conferred and have agreed that their service of filings between each other in this matter may be effected by electronic mail. *See* The Environmental Appeals Board Practice Manual, section IV.7, at page 51; 40 C.F.R. section 124.19(i)(3)(ii).

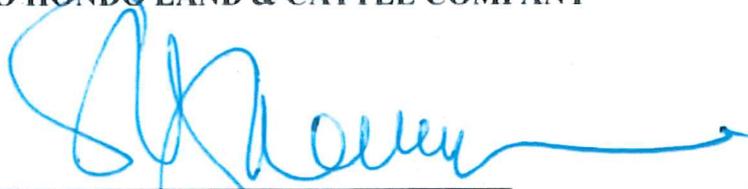
Respectfully submitted this ^{7th} 6th day of November, 2017

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 6**



David Gillespie
Assistant Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202
(214) 665-7467
Arkansas Bar No. 96210
gillespie.david@epa.gov

RIO HONDO LAND & CATTLE COMPANY



Steven Sugarman
Attorney for Rio Hondo Land & Cattle Company
347 County Road 55A
Cerrillos, New Mexico 87010
(505) 672-5082
stevensugarman@hotmail.com

CITY OF RUIDOSO DOWNS AND VILLAGE OF RUIDOSO



Edmund H. Kendrick
Montgomery & Andrews, P.A.
Post Office Box 2307
Santa Fe, New Mexico 87504-2307
(505) 986-2527
ekendrick@montand.com

CERTIFICATE OF SERVICE

I, David Gillespie, hereby certify that on this 7th day of November, 2017, I served a copy of the foregoing Joint Motion on the parties identified below by electronic mail.

Steven Sugarman
Attorney for Rio Hondo Land & Cattle Company
347 County Road 55A
Cerrillos, New Mexico 87010
(505) 672-5082
stevensugarman@hotmail.com

and

Edmund H. Kendrick
Attorney for the City of Ruidoso and Village of Ruidoso
Montgomery & Andrews, P.A.
Post Office Box 2307
Santa Fe, New Mexico 87504-2307
(505) 986-2527
ekendrick@montand.com



David Gillespie
Assistant Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202
(214) 665-7467
Arkansas Bar No. 96210
gillespie.david@epa.gov