

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

In re:)	
)	
Evoqua Water Technologies LLC and)	RCRA Appeal No. 18-01
Colorado River Indian Tribes)	
)	
RCRA Permit No. AZD982441263)	
)	

ORDER FURTHER EXTENDING DEADLINE FOR POST-HEARING BRIEF

At the close of the April 9, 2019, oral argument in this matter, the Board ordered the Region to submit a post-hearing brief on three questions, including whether the Permit requires that both Permittees sign any requests for Permit modification. The Board set an April 16, 2019, deadline for briefing by EPA Region 9 (“Region”), and an April 23, 2019, deadline for responses from Evoqua Water Technologies LLC (“Evoqua”) and the Colorado River Indian Tribes (“Tribes”).

The Region timely filed its post-hearing brief. *See* U.S. Environmental Protection Agency Region 9’s Post-Hearing Brief Regarding the Environmental Appeals Board’s Questions (Apr. 16, 2019). With regard to the question of who must sign any Permit modification requests, the Region stated: “The Region is unable to identify any specific Permit conditions that require both Permittees to sign requests for permit modifications. And, it appears that the language in Permit condition I.A.6. would allow for either Permittee to submit such a request without the other Permittee’s signature.” *Id.* at 2.

On April 24, 2019, the Board granted a joint motion by Evoqua and the Tribes extending the deadline to file a response on this question until May 13, 2019. *See* Order Extending Deadline for Post-Hearing Brief. By motion filed with the Board on May 10, 2019, Evoqua and the Tribes now seek a further extension of time, until May 28, 2019, to submit a post-hearing brief on the question of who must sign any Permit modification requests. *See* Evoqua Water Technologies LLC’s and Colorado River Indian Tribes’ Second Joint Motion to Extend Deadline for Post-Hearing Brief as to Issue 1 (“Second Joint Motion”). In support of their joint request for an additional extension, the Second Joint Motion states that although Evoqua and the Tribes “have reached an agreement in principle on a protocol for permit modification submittals that addresses the signatory concerns raised by both parties,” the parties need additional time to “present a draft protocol to the [Colorado River Indian Tribes] Tribal Council for approval and * * * to discuss the proposed protocol with the Region.” *Id.* at 2. The Second Joint Motion states further that the next meeting of the Tribal Council is scheduled for May 20, 2019, and that “[p]rior to that meeting, Evoqua and [the Tribes] will endeavor to discuss the revised protocol with the Region in an effort to reach unanimity among the three parties on a workable protocol for permit modification submittals.” *Id.* Evoqua and the Tribes represent that the Region supports the Second Joint Motion. *Id.* at 3.

For good cause shown, the Board **GRANTS** the Second Joint Motion and extends the deadline for Evoqua and the Tribes to file post-hearing briefs on the question of whether both Permittees must sign any Permit modification requests to **May 28, 2019**.


The Board further directs Evoqua and the Tribes to notify the Board, in advance of May 28, if the parties have negotiated a mutually satisfactory protocol for such submittals such that there is no need for further briefing or a ruling on the issue raised by Evoqua in Section V.A

of its Petition. *See* Petition at 5-8 (arguing that “EPA has impermissibly issued the final permit jointly to Evoqua and [the Tribes] as Co-Permittees”).

So ordered.

ENVIRONMENTAL APPEALS BOARD

Date: May 13, 2019

By: 
Mary Beth Ward
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **ORDER FURTHER EXTENDING DEADLINE FOR POST-HEARING BRIEF** in the matter of *Evoqua Water Technologies LLC*, RCRA Appeal No. 18-01, were sent to the following persons by email:

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