

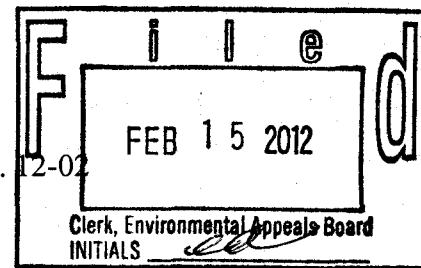
**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:

San Pedro Forklift

Docket No. CWA-09-2009-0906

CWA Appeal No. 12-02



**ORDER GRANTING MOTION FOR
EXTENSION OF TIME TO FILE APPEAL**

On January 27, 2012, Administrative Law Judge Barbara A. Gunning issued an Initial Decision in the above-captioned case. By motion received February 13, 2012, Region 9 of the U.S. Environmental Protection Agency, Complainant in the case, requests an extension of time to file a notice of appeal of the Initial Decision, along with an accompanying appellate brief. Region 9 seeks an additional forty-five days, until April 18, 2012, to consult with appropriate officials in EPA Headquarters and regional offices on the substance of this case before filing its appeal. Region 9 contacted San Pedro Forklift, Respondent below, and determined that it does not object to the granting of this motion.

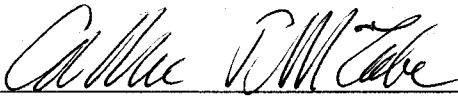
For good cause shown, the motion is hereby **GRANTED**. If, after consulting with appropriate officials, Region 9 elects to appeal the Initial Decision, the Region's notice of appeal and appellate brief must be filed with the Clerk of the Environmental Appeals Board on or before Wednesday, April 18, 2012.¹

¹This order extends the appeal deadline beyond the period (forty-five days from the date of service of the Initial Decision) within which the Environmental Appeals Board would ordinarily determine, under 40 C.F.R. § 22.30(b), whether to undertake *sua sponte* review of an unappealed Initial Decision. Normally, because the time for a party to file an appeal is thirty days from the date of service of the Initial Decision, the Board has fifteen additional days to make its determination respecting *sua sponte* review. To preserve that interval in this case, the

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: Feb. 15, 2012

By: 
Catherine R. McCabe
Environmental Appeals Judge

Board will defer any consideration of *sua sponte* review until after the revised deadline for filing an appeal expires on April 18, 2012. See 40 C.F.R. § 22.1(c) (when a procedural issue arises that is not explicitly addressed in the Consolidated Rules of Practice at 40 C.F.R. part 22, the Board has discretion to resolve the issue as it deems appropriate). As a result, the Initial Decision shall be regarded as the final order of the Environmental Appeals Board pursuant to 40 C.F.R. § 22.27(c) *only* if: (1) no appeal is filed on or before April 18, 2012; and (2) the Board does not elect to review the Initial Decision *sua sponte* on or before Thursday, May 3, 2012 (i.e., the fifteenth day after the Region's revised deadline for filing an appeal).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Granting Motion for Extension of Time to File Appeal** in the matter of *San Pedro Forklift*, CWA Appeal No. 12-02, were sent to the following persons in the manner indicated:

By Facsimile and First Class U.S. Mail:

Earnest J. Franceschi, Jr., Esq.
445 South Figueroa Street
Suite 2600
Los Angeles, California 90071
telephone: (213) 612-7723
facsimile: (213) 612-7724

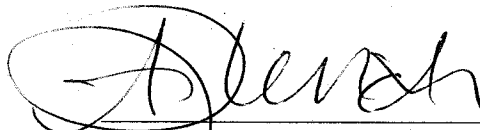
By First Class U.S. Mail:

John C. Glaser, Esq.
Glaser, Tonsich & Associates, LLP
2500 Via Cabrillo Marina
Suite 310
San Pedro, California 90731
telephone: (310) 241-1200

By Facsimile and USEPA Pouch Mail:

Julia A. Jackson, Esq.
Daniel Reich, Esq.
U.S. Environmental Protection Agency, Region 9
Office of Regional Counsel (ORC-2)
75 Hawthorne Street
San Francisco, California 94105
telephone: (415) 972-3948
facsimile: (415) 947-3571

Date: FEB 15 2012


Annette Duncan
Secretary