



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

In re: NPDES Appeal No. 18-02
Arizona Public Service Co.
NPDES Permit No. NN0000019

ORDER GRANTING EXTENSION OF TIME TO FILE RESPONSES AND REPLY

On August 1, 2018, the Environmental Appeals Board ("Board") received from U.S. Environmental Protection Agency Region 9 ("Region") an unopposed motion for an extension of time ("Motion") for the Region and the permittee, Arizona Public Service Company ("APS"), to file their responses, and for Dine' Citizens Against Ruining the Environment, San Juan Citizens Alliance, Amigos Bravos, Center for Biological Diversity, and Sierra Club (collectively "Petitioners") to file their reply. The parties requested that the Board extend the time for filing the response briefs to no later than October 19, 2018, and the reply brief to no later than December 14, 2018.

In support of the Motion, the Region states that the "substantively complex, substantial, distinct, and varied range of issues" presented in the petition for review require "careful consideration," including analysis of technical arguments. See Region IX's Unopposed Motion for Extension of Time to File Responses and Replies at 2 (Aug. 1, 2018) ("Motion"). The Region also states that to prepare its response, the Region must coordinate and consult with various offices within EPA, including the Office of General Counsel, and that several matters Petitioners raise involve legal or technical issues that are presently in litigation or the subject of

an EPA rulemaking. *Id.* Finally, counsel for Petitioners, APS, and the Region “agree to the extensions requested in this Motion.” *Id.*

After reviewing the Region’s Motion, the Board issued an Order requesting that the Region make a supplemental filing that: “(1) state[d] whether EPA’s Office of General Counsel and Office of Water concur with the proposed briefing schedule; and (2) explain[ed] why the extension of time for the response briefs necessitates an additional six weeks beyond what the regulation provides for Petitioners to file their reply brief.” *In re Arizona Public Service Co.*, NPDES Appeal No. 18-02, at 2 (EAB Aug. 2, 2018) (Order Regarding Request for Extension of Time and Service by E-mail). In response to the Board’s Order, the Region first noted that it had initiated consultations with the Office of General Counsel and Office of Water shortly after receiving the Petition and that these offices specifically “concurred with the dates agreed to by the parties and proposed in the Unopposed Motion.” Region IX’s Supplement to Its Unopposed Motion for Extension of Time to File Responses and Replies at 2 (Aug. 9, 2018) (“Supplemental Motion”). Further, the Region explained that Mr. John Barth, Counsel for Petitioners, had represented that “he has numerous prior work and personal obligations between October 18 and December 14, 2018,” necessitating an extension of the reply brief until December 14, 2018. *Id.* at 2-3.

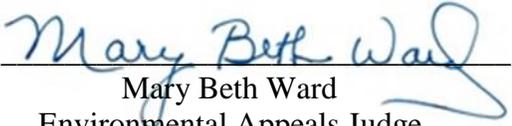
Upon consideration of the Region’s Motion and Supplemental Motion for an extension of time, and for good cause shown, the Board determines that an extension of time to file the responses and the reply is warranted. *See* 40 C.F.R. § 124.19(n). Accordingly, the Board GRANTS the Region’s Motion to extend the time to file responses and the reply as proposed.

Response briefs in this matter must be filed no later than **October 19, 2018**. The reply brief, if any, must be filed no later than **December 14, 2018**.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: August 10, 2018

By: 
Mary Beth Ward
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Granting Extension of Time to File Responses and Reply* in the matter of Arizona Public Service Co., NPDES Appeal No. 18-02, were sent to the following persons in the manner indicated:

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Dated: August 10, 2018



Eurika Durr
Clerk of the Board