

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 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 permit modification requests. The Board set an April 16 deadline for EPA Region 9’s (“Region’s”) brief, and an April 23 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.

By joint motion dated April 23, 2019, Evoqua and the Tribes now seek an extension of the deadline to file a response on this question until May 13, 2019. *See* Evoqua Water Technologies LLC’s and Colorado River Indian Tribes’ Joint Motion to Extend Deadline for

Post-Hearing Brief as to Issue 1 (“Joint Motion”). In support of the extension request, the Joint Motion states that 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,” but that “the parties need additional time” to get approval from the Tribal Council and to discuss the proposed protocol with the Region. Joint Motion at 2. The Joint Motion states that the Region takes no position regarding the extension request. *Id.* at 3.

For good cause shown, the Board **GRANTS** the 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 13, 2019**. The Board further directs Evoqua and the Tribes to notify the Board in advance of May 13, 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: April 24, 2019

By: 
Mary Beth Ward
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **ORDER 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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Eurika Durr
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