

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

_____)	
In re:)	
)	
Florence Copper, Inc.)	Appeal Nos. UIC 17-01; UIC 17-02;
)	UIC 17-03.
UIC Permit No. R9UIC-AZ3-FY11-1)	
)	
_____)	

**REGION IX’s UNOPPOSED MOTION FOR CLARIFICATION REGARDING EPA
RESPONSES**

On January 25, 2017, the United States Environmental Protection Agency (EPA) Region 9 (“Region”) filed an Unopposed Motion for Extension of Time to File Responses (“Motion for Extension”) to request the Environmental Appeals Board (“EAB” or “Board”) grant the Region an extension of time to April 7, 2017 to respond to Permit Appeals 17-01, 17-02 and 17-03 of the Class III Underground Injection Control (UIC) permit issued to Florence Copper Inc.(FCI). In its January 26, 2017 Order Extending Time to File Responses (“Order”), the Board generously granted the Region’s request for extension for filing of the responses. By this motion, the Region seeks clarification on the consolidation of the responses to the petitions.

The Region respectfully seeks clarification on the status of the responses to the petitions filed with the Board as the Order indicated the Region would be filing a “consolidated response” to the three petitions. *See* Order at 2. However, in its Motion for Extension, the Region requested an extension of time for filing of “comprehensive” *responses*, rather than a “consolidated” response, to the three petitions.

Indeed, the Region believes limiting its Response to one consolidated response in the word limit indicated in the Order would not provide the Region the ability to fully and adequately address the “substantively complex, substantial, distinct and varied range of issues raised in the three petitions.” *See* Order at 1; Motion for Extension at 2. The Region is concerned that a consolidated response could prejudice Petitioners as the Region would have limited opportunity to provide adequate and comprehensive responses to the different issues raised in each petition, which is the reason that it did not explicitly move for the Board to consolidate the responses. The Region believes the format of three responses will also benefit the Board, as the content of each of the three petitions are distinct and as a result, the Board’s review would be aided by individual responses from the Region. Therefore, the Region requests clarification that the Board will allow three separate responses to be filed by the Region (and as appropriate, by other parties as well) by the deadline of April 7, 2017, one for each petition and each with the standard length and other requirements of 40 C.F.R. § 124.19. The Region represents that though electronic and telephone communication, each of three Petitioners and permittee FCI have indicated that they do not oppose this Motion for Clarification Regarding EPA Responses.

In addition, the Region notes that a Notice of Appearance (“Notice”) by the permittee, FCI, was filed on January 30, 2017. The Region has requested and received permission from FCI for service of filings by electronic mail only to the electronic addresses provided in their Notice, with no hard copy service by mail or similar means. (*See* Attachment 1, attached hereto). Due to the new regulations regarding electronic service at 40 C.F.R. § 124.19(i)(3)(ii) effective March 10, 2017, EPA hereby provides acknowledgement of consent to electronic service to the email address in the signature block of this motion. *See* 82 Fed. Reg. 2230, 2237 (January 9, 2017).

In conclusion, the Region respectfully requests the Board clarify that it will allow the Region to file three separate responses to each of the petitions by April 7, 2017, each with the standard length and other requirements of 40 C.F.R. § 124.19.

Date: February 1, 2017

Respectfully submitted,

/S/ Alexa Engelman

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CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the attached **MOTION FOR CLARIFICATION REGARDING EPA RESPONES** to be served by electronic mail upon the persons listed below.

Dated: February 1, 2017

/S/ Alexa Engelman

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