



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue
Seattle, Washington 98101RECEIVED
U.S. E.P.A.

2007 JUL 17 PM 3:33

ENVIR. APPEALS BOARD

Office of Regional Counsel ORC-158
Phone (206) 553-1037 Fax (206) 553-0163

To: US EPA Clerk of the
Board - Env. Appeals

Fax: (206) 553-0161

From: Keith Cohen R10

Date: 07/17/07

Re: Teck Cominco Red Dog

Pages: 4

☐ Urgent

☐ For Review

☐ Please Comment

☐ Please Reply

The information contained in this communication is intended only for the use of the addressee and may be confidential, may be attorney-client privileged, may constitute attorney work product, and may constitute inside information. Unauthorized use, disclosure or copying is strictly prohibited and may be unlawful. If you have received this communication in error, please contact us as soon as possible at (206) 553-1037.

Comments: Teck Cominco Alaska, Inc., Red Dog Mine
Permit No. AK - 003865-2
Appeal No. NPDES 07-08 & 07-09



RECEIVED
U.S. E.P.A.

2007 JUL 17 PM 3:33

ENVIR. APPEALS BOARD

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

_____)	
In re:)	
)	NPDES Appeal No. 07-08 & 07-09
Teck Cominco Alaska Incorporated)	
Red Dog Mine)	
)	Region 10 Second Motion for Extension
NPDES Permit No. AK-003865-2)	of Time
_____)	

The Environmental Protection Agency, Region 10 ("the Region"), respectfully moves the Environmental Appeals Board ("EAB") for a second 60-day extension of time to file its responses to the Petitions filed by Teck Cominco Alaska, Inc. ("TCAK") and by the City of Kivalina et al. ("Kivalina") in this appeal. The undersigned counsel has discussed this request with TCAK's counsel, Robert Reges, and with Kivalina's counsel, Luke Cole, both of whom have authorized the undersigned to represent to the EAB that they support this motion.

The Region received these Petitions in mid-April. As noted in our earlier extension request (dated May 11, 2007), the two petitions together, in 93 pages of briefing, raise approximately 70¹ complex issues pertaining to the Clean Water Act (water quality based

¹In our first extension request we asserted that the Petitions raised between 30 and 40 issues. Upon further analysis, some issues actually pertain to several effluent limits, and, in some cases, require separate responses for each effluent limit. Some of the 70 issues may become consolidated again in the petition response.

effluent limits, antibacksliding, antidegradation, mixing zones, whole effluent toxicity, and monitoring requirements), the National Environmental Policy Act ("NEPA"), and public notice and comment. The EAB initially set May 29, 2007, as the deadline for the Region's response. At Region 10's request, the EAB extended that deadline to July 30, 2007.

At the time of the earlier extension request, the Region had not yet had the time to thoroughly analyze all of the issues and the record pertaining to them, and for that reason had no precise estimate of the amount of time that would be required to complete the preparation of its responses to the Petitions. Since then, the Region has had several technical staff and lawyers working diligently on this appeal. We have nearly completed assembling and indexing the record, and performed initial procedural and substantive analyses on all of the issues raised. Based on that work, we believe that additional time will be needed in order to thoroughly brief all of the issues raised in the Petitions. The Region submits that it is in the interests of a just resolution of this Petition that the EAB grant an additional 60 days, until September 28, 2007, for the Region, TCAK, and Kivalina² to respond to these Petitions.

Respectfully submitted this 17th day of July, 2007.

ENVIRONMENTAL PROTECTION AGENCY, REGION 10



KEITH E. COHON
Assistant Regional Counsel

OF COUNSEL:

Pooja Parikh, Water Law Office, Office of General Counsel

Marilyn J. Kuray, Cross-Cutting Issues Law Office, Office of General Counsel

²The Region would have no objection to this extended deadline apply to any brief filed by NANA Regional Corporation, Inc., if the EAB grants its pending motion for leave to intervene.

CERTIFICATE OF SERVICE

I certify that the foregoing "Region 10 Second Motion for Extension of Time" was sent to the following persons, in the manner specified, on the date below:

Original and five copies by Federal Express, and facsimile copy, to:


U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, N.W., Suite 600
Washington, D.C. 20005
Fax: (202) 233-0121

One copy, by facsimile and Federal Express, to each of the following:

Robert K. Reges Jr.
Hartig, Rhodes, Hoge & Lekisch, P.C.
500 L Street, Suite 300
Anchorage, Alaska 99501
Fax: (907) 222-7199

Luke Cole
Center on Race, Poverty & the Environment
47 Kearny Street, Suite 804
San Francisco, California 94108
Fax: (907) 346-8723

Dated: 17 July 07



Jennifer Eason
U.S. EPA, Region 10