

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

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In re:	)	
	)	Appeal No. NPDES 20-01
City and County of San Francisco	)	
	)	
NPDES Permit No. CA0037681	)	
_____	)	

**JOINT MOTION FOR EXTENSION OF TIME**

The United States Environmental Protection Agency (“EPA”) Region 9 and City and County of San Francisco (“San Francisco”) request that the Environmental Appeals Board (“EAB” or “Board”) grant a 16-day extension of time for EPA to file its response to the Petition for Review (“Petition”) filed by San Francisco in NPDES Appeal No. 20-01; and that the Board grant a 10-day extension for San Francisco to file its reply. EPA and San Francisco also propose that any amicus parties must file by the date San Francisco’s reply is due. The modified proposed briefing schedule is set forth below, as well as the parties’ justification for the extension.

The Petition raises a substantively complex, distinct, and varied range of issues, including important legal and policy questions turning on interpretation of the Clean Water Act and its implementing regulations. Therefore, consistent with the Board’s direction, preparation of the Region’s response has, since receipt of the Petition, required close consultation and coordination with various offices within EPA headquarters that have an interest in the matters raised in the

Petition, including the Office of Water and the Office of General Counsel. *See*, Procedures for Coordination OE-OGC-Regions Environmental Appeals Board (Jan. 25, 1993) (emphasizing the importance of early consultation with Headquarters offices).

The extensive coordination among these offices is continuing, and the requested 16-day extension is necessary to ensure that the brief filed by the Region reflects full deliberation among these offices on the important issues in this matter. The length of the requested extension reflects, in part, that critical Headquarters subject matter experts on some of the issues raised by the Petition had long-planned absences during the week of February 17. However, the relevant offices have structured the internal coordination processes so as to minimize the length of the requested extension while ensuring conclusion of needed deliberations and reviews.

Further, the Region issued a Notice of Stayed Permit Conditions on February 7, 2020, in accordance with 40 C.F.R. 124.16(a), stating that the challenged permit conditions are stayed pending final agency action from the Board.

EPA conferred with San Francisco and it agrees to the proposed extension, provided San Francisco and any amicus who wish to file may have a ten-day extension as well. San Francisco requests the extension to file the reply brief because of the complexities involved in drafting the reply brief and the time needed to obtain the necessary internal approvals within San Francisco.

The proposed joint briefing schedule is set forth below:

- EPA's Response to the Petition (including the Certified Index of the Administrative Record and the relevant portions of the Administrative Record), which would otherwise be due on February 12, 2020, shall be filed on or before February 28, 2020.

- San Francisco’s Reply Brief, which would otherwise be due on March 16, shall be filed on or before March 25, 2020.
- Any amicus briefs shall be filed on or before March 25, 2020.

The parties would also like to inform the Board that they have agreed to accept service of filings by electronic mail only pursuant to 40 C.F.R. 124.19(i)(3)(ii), with no hard copy service by mail or similar means.

In conclusion, EPA Region 9, after consultation with and concurrence by the Office of General Counsel and Office of Water, and San Francisco respectfully request that the Board approve the proposed briefing schedule for the reasons described above.

February 10, 2020

Respectfully submitted,

**For EPA**

*/S/ Dustin Minor*

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**Certificate of Service**

I hereby certify that I caused a copy of the attached *JOINT MOTION FOR EXTENSION OF TIME* to be served via email upon the persons listed below.

February 10, 2020

Respectfully submitted,

*S/ Dustin Minor*

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