

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY****REGION 10**1200 Sixth Avenue
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To: U.S. EPA Clerk of the Board
EAB. **Fax:** (202) 233-0121

From: Keith Cohen **Date:** 5/11/07

Re: **Pages:** 7

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

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ENVIR. APPEALS BOARD

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

In re:)	
)	Appeal No. NPDES 07-08
TECK COMINCO ALASKA, INC.)	
Red Dog Mine)	
NPDES Permit No. AK-003865-2)	MOTION FOR EXTENSION OF TIME

The Environmental Protection Agency, Region 10 ("the Region"), respectfully moves the Environmental Appeals Board ("EAB") for a 60-day extension of time to file its response to the Petition filed by the City of Kivalina et al. ("Kivalina") in this appeal. Kivalina's counsel, Luke Cole, has given the undersigned counsel his oral consent to this motion. The grounds for the motion are set forth below.

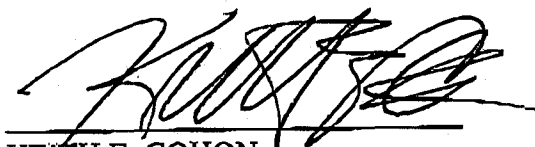
During the week of April 16, 2007, the Region received two petitions seeking review of the same permit (NPDES Permit No. AK-003865-2); the petition in this appeal (filed April 11, 2007), and the petition in Appeal No. NPDES 07-08 (filed April 9, 2007). The two petitions together, in 93 pages of briefing, raise between 30 and 40 complex issues pertaining to the National Environmental Policy Act (NEPA), public notice and comment, water quality based effluent limits, antibacksliding, antidegradation, mixing zones, whole effluent toxicity, and monitoring requirements. Many of the arguments must be evaluated separately for multiple parameters. The EAB set May 29, 2007, as the deadline for the Region's response.

The Region has been diligently analyzing the arguments asserted by the two petitions. But the process of evaluating all of these arguments, determining whether any limits are unaffected by the appeal and therefore not stayed, determining whether any issues may have merit and warrant withdrawal under 40 C.F.R. § 124.19(d), analyzing whether each argument was raised during the comment period and properly addresses the Response to Comments, responding substantively to each argument, preparing an index of the voluminous administrative record, and coordinating with the EPA Office of General Counsel on all of the above, is more than the Region can accomplish effectively in the ordinary 45-day period allowed for a response to a Petition. 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 July 30, 2007, for the Region to respond to this Petition.

The Region is also submitting a corresponding motion in the related appeal (Appeal No. NPDES 07-09), as well as a motion to consolidate the two appeals.

Respectfully submitted this 11th day of May, 2007.

ENVIRONMENTAL PROTECTION AGENCY, REGION 10



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CERTIFICATE OF SERVICE

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

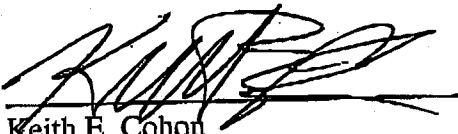
Original and five copies by Federal Express, and facsimile copy, to:

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Clerk of the Board, Environmental Appeals Board
Colorado Building
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Washington, D.C. 20005
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One copy, by facsimile and Federal Express, to:

Luke W. Cole
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Dated: 5/11/07


Keith E. Cohon
U.S. EPA, Region 10