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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
ENVIRONMENTAL APPEALS BOARD

In the Matter of:

Star Sewer and Water District –  
Wastewater Treatment Plant

NPDES Permit No. ID0023591

Appeal No. NPDES 15-07

**IDAHO DEPARTMENT OF ENVIRONMENTAL  
QUALITY'S MOTION FOR EXTENSION OF  
TIME TO FILE RESPONSE BRIEF**

The Idaho Department of Environmental Quality ("IDEQ") requests that the Environmental Appeals Board grant a thirty day extension of the deadline for filing a response to the Petition for Review filed by Star Sewer and Water District in Appeal No. 15-07. The extension would be consistent with the extension previously granted to EPA and would extend the deadline from May 27, 2015 to June 24, 2015. As grounds for the motion, IDEQ states the following:

1. IDEQ is the agency authorized to adopt Water Quality Standards and make certification decisions under sections 303 and 401 of the Clean Water Act. Idaho Code §§ 39-105;

39-3601 *et.seq.* On February 20, 2015, IDEQ provided a certification of the NPDES permit with respect to which Star filed its Petition for Review.

2. 40 CFR 124.19(b)(4) provides that a State authority where the permitted facility or site is or is proposed to be located (if that authority is not the permit issuer) must file a notice of appearance and a response if it wishes to participate in the appeal by the deadlines for EPA's response to the Petition. IDEQ is not the permit issuer, but is the authority that implements the CWA in Idaho where the Star facility is located. Therefore, this section provides the deadlines for IDEQ to file its response to Star's Petition for Review.
3. IDEQ was informed of Star's Petition for Review. Last week, IDEQ was provided a copy of EPA's motion for an extension of time to file a response brief. In response to the motion, on May 19, 2015, the EAB issued an Order granting the motion and extending EPA's deadline for filing its response to the Petition to June 24, 2015. IDEQ was subsequently informed of the Order.
4. IDEQ must, pursuant to 40 CFR 124.19(b)(4) file its Response to the Petition at the same time EPA is required to file its response. Therefore, since EPA's response deadline has been extended until June 24, 2015, the deadline for IDEQ's response is also now June 24, 2015. IDEQ does not believe a motion to extend is necessary under 40 CFR 124.19(b)(4). Nevertheless, to be cautious, IDEQ has filed this motion.
5. Even if not provided as a matter of law, it is consistent with the federal rules to extend IDEQ's deadline so that it corresponds with EPA's deadline. It would also be more efficient for the EAB to receive both responses on the same date.
6. The Star Petition raises critical issues for IDEQ regarding its interpretation of Idaho Water Quality Standards and EPA's ability to issue a permit which conflicts with Idaho's

interpretation of its WQS. IDEQ is concerned that it have sufficient time to fully respond to the issues raised in the Petition for Review.

7. IDEQ is currently undergoing multiple rulemakings to amend the Idaho Water Quality Standards, and the undersigned counsel for IDEQ has been responsible for preparing rule language and assisting IDEQ in the rulemaking process. Given the demands of these processes it will be difficult to prepare a response regarding the Star appeal by May 27, 2015.
8. On May 18, 2015, undersigned counsel for IDEQ received an e-mail from EPA counsel stating that EPA would not oppose a motion to extend, if IDEQ chose to file such a motion. On May 26, 2015, Counsel for Star informed IDEQ that Star does not oppose the motion.
9. Therefore, for the above reasons, IDEQ respectfully requests an extension of the time to file a response to the Petition for Review to June 24, 2015.

Dated this 26<sup>th</sup> day of May, 2015.

Respectfully Submitted



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### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26<sup>th</sup> day of May 2015, a true and correct copy of the foregoing **IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY'S MOTION FOR EXTENSION OF TIME TO FILE RESPONSE BRIEF** was served on the following as indicated below:

U.S. Environmental Protection Agency  
Clerk of the Environmental Appeals Board  
1341 G Street NW, Suite 600  
Washington, DC 20005

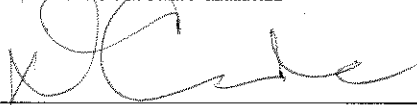
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