

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ENVIRONMENTAL APPEALS BOARD

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)	
In the Matter of:)	Appeal No. NPDES 13-09
)	
JOINT BASE LEWIS-McCHORD)	EPA REGION 10'S
MUNICIPAL SEPARATE STORM)	MOTION FOR EXTENSION OF TIME
SEWER SYSTEM)	TO FILE RESPONSE BRIEF
)	
NPDES Permit No. WAS-026638)	
_____)	

The United States Environmental Protection Agency ("EPA"), Region 10 ("Region") respectfully requests an extension of time in which to file its response brief to Appeal No. 13-09. The extension would move the date by which the Region must respond to the Petition for Review ("Petition") filed by the United States Department of the Army ("Army") from December 5, 2013 to January 15, 2014. As grounds for the motion, the Region states as follows:

1. On August 22, 2013, the Region issued National Pollutant Discharge Elimination System ("NPDES") Permit No. WAS-026638 to Joint Base Lewis-McChord ("JBLM") for discharges from JBLM's municipal separate storm sewer system ("MS4").

2. On September 19, 2013, the Army filed an unopposed Motion for Extension of Time to File a Petition for Review which requested a thirty (30) day extension of time to file a petition for review with the EAB. On September 24, 2013, the Environmental Appeals Board ("EAB") issued an order extending the deadline for filing a petition for review to October 28, 2013.

3. Subsequently, following the federal government shutdown, the Army filed a Motion for Additional Extension of Time to File Petition for Review which requested an additional five (5) business days to file a petition for review with the EAB. Region 10 did not oppose the motion and the EAB issued an order extending the deadline for filing a petition for review to November 5, 2013.

4. On November 5, 2013, the Army filed with the EAB a Petition for Review of NPDES Permit No. WAS-026638 ("Petition"). The Petition was assigned Appeal No. NPDES 13-09.

5. Pursuant to 40 C.F.R. § 124.19(b)(2), "the Regional Administrator must file a response to the petition, a certified index of the administrative record, and the relevant portions of the administrative record within 30 days after the filing of the petition." Therefore, the Region's response brief is currently due on December 5, 2013.

6. The Petition raises a number of complex issues that have national implications. In addition, EPA Region 8 is dealing with a similar permit appeal that raises similar issues. As such, the Region needs additional time to prepare its response brief to ensure sufficient coordination with a number of offices within EPA Headquarters as well as with EPA Region 8.

7. The EPA regional attorney assigned to this case will be out of the office beginning December 12, 2013 and will not be returning to the office until January 2, 2014.

8. Numerous EPA staff needed to review the response brief will be out of the office the weeks of December 23, 2013 and December 30, 2013 due to the Christmas and New Year holidays.

9. The Region will need time between January 2, 2014 and January 15, 2014 to coordinate and allow for internal review of the response brief.

10. On November 25, 2013, in a phone conversation with the EPA regional attorney, counsel for the Army indicated that it does not object to this motion. This was followed up by an

email message indicating that the Army will not oppose this motion. There are no other parties to the proceedings.

11. As such, the Region requests that the EAB grant an extension on the time to file a response brief to January 15, 2014.

DATED: November 25, 2013

Respectfully Submitted



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CERTIFICATE OF SERVICE

I certify that the foregoing "EPA Region 10's Motion for Extension of Time to File Response Brief" was sent to the following persons, in the manner specified, on the date below:

By electronic filing to:

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

By electronic and U.S. Mail to:

Kari L. Hadley
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Environmental Litigation Center
9275 Gunston Road, Suite 4301
Fort Belvoir, VA 22060
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DATED: November 25, 2013



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U.S. EPA, Region 10