

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

In re:)
)
)
City of Boise NPDES Permits)
West Boise Permit)NPDES Appeal Nos. 01-08 & 01-10
Lander Street Permit)
Permit Nos. ID002044-3)
& ID002398-1)
)

REMAND ORDER

On February 23, 2001 the City of Boise ("the City"), Micro Technology, Inc. ("MTI"), and EPA Region 10 (collectively the "parties") filed a stipulated motion requesting the above captioned matters be stayed until February 1, 2003.¹ The stipulated motion explains that the parties have agreed upon a

¹On February 6, 2001, the City filed a petition for review (NPDES Appeal No. 01-08) in which it challenges the metal limits in two NPDES permits reissued (to the City of Boise) by Region 10. On February 7, 2001, MTI, an indirect discharger that discharges industrial wastewater into the City's wastewater treatment facilities, also filed a petition for review (NPDES Appeal No. 01-10). These petitions follow an earlier appeal (NPDES Appeal No. 00-13) relating to the same facilities, which was remanded to Region 10 on November 28, 2000, to allow the Region to proceed in accordance with a settlement agreement between the Region, the City and MTI. See Order Granting Remand Request, NPDES Appeal No. 00-13 (EAB, Nov. 28, 2000). The prior appeal was remanded because the contested permits were going to be reissued and the parties agreed to settle most of the issues raised on appeal. The permits were reissued by Region 10 on January 8, 2001, and even though the parties agreed to a data collection and sampling plan that might ultimately resolve the issues raised in the current appeals, the City and MTI decided to request review in order to preserve their right to appeal.

data collection and sampling plan to be conducted by the City within the next year, the results of which might render these appeals moot.²

Upon consideration, the Board hereby stays further briefing in these matters, and remands the appeals to Region 10 to allow it to proceed in accordance with the settlement agreement between Region 10, the City, and MTI. This remand is without prejudice to the right of any party to request reinstatement of the appeals, if that should prove necessary, by written notice to the Board.

So ordered.

Dated: 02/27/01

ENVIRONMENTAL APPEALS BOARD

By: _____ /s/

Edward E. Reich
Environmental Appeals Judge

²The reissued permits provide for a two-year compliance schedule, within which the City will conduct the one-year data collection plan. If the study is performed as agreed, EPA will use these data to determine whether the metals limits are required and then proceed to modify the reissued permits to remove the metals limits if it concludes modification is warranted.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Remand Order in the matter of City of Boise NPDES Permits: West Boise & Lander Street, NPDES Appeal Nos. 01-08 & 01-10, were sent to the following persons in the manner indicated:

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Dated: 02/28/01

_____/s/_____
Annette Duncan
Secretary