

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

_____))
In re:))
))
Diversified Contractors, Inc.) PSD Appeal No. 97-8
))
_____))

ORDER DISMISSING PETITION FOR REVIEW

By motion dated January 27, 1999, the U.S. EPA Region IX moves to dismiss as moot the petition for review filed by Diversified Contractors, Inc. ("Diversified") in the above-captioned matter. Motion to Dismiss Diversified Contractors, Inc's Petition for Review ("Motion") and attached Memorandum In Support of EPA's Motion to Dismiss Diversified Contractors, Inc's Petition for Review ("Memo"). In support of the Motion, the Region states:

- 1) Diversified's lease will expire on March 31, 1999 and will not be renewed, and Diversified has ceased operations at its facility and is in the process of making arrangements to vacate the premises;
- 2) the Ak-Chin Indian Tribe is in the process of approving an ordinance prohibiting the treatment of both petroleum and pesticide contaminated soils;
- 3) it appears that Diversified is no longer pursuing the permitting process; and
- 4) Diversified's bankruptcy filing under Chapter 11 may be converted to Chapter 7 and the corporations assets liquidated.

Memo at 1.

In response, Diversified states that it does not oppose the Region's motion to dismiss the petition for review but requests "that the motion be granted effective April 1, 1999 in order to

allow Diversified sufficient time to treat any soil remaining on-site which does not yet meet applicable soil remediation levels."¹

Response to EPA's Motion to Dismiss Diversified Contractors, Inc's Petition for Review (Feb. 8, 1999). Diversified further states that the Region "agreed to this period of time by telephone message last week." Memorandum in Support of Response to EPA's Motion to Dismiss Diversified Contractors, Inc's Petition for Review.

For good cause shown, the Region's motion is granted and the petition for review filed Diversified is hereby dismissed. The dismissal shall be effective on April 1, 1999.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: 02/09/99

By: _____/s/
Ronald L. McCallum
Environmental Appeals Judge

¹As the Region notes in its Memo, "[d]uring the pendency of this appeal, Diversified has been allowed to continue its operations treating petroleum contaminated soil in compliance with a Consent Decree entered by the United States District Court in September 1997." Memo at 3 n.3.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Dismissing Petition for Review in the matter of Diversified Contractors, Inc., PSD Appeal No. 97-8, were sent to the following persons in the manner indicated:

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_____/s/_____
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Secretary