

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

_____)	
In re:)	
)	
Puerto Rico Power Authority,)	
San Juan Generating Station)	PSD Appeal No. 00-1
Repowering Project)	
)	
_____)	

**ORDER GRANTING REQUEST FOR WITHDRAWAL
OF PETITION FOR REVIEW**

On April 11, 2000, Puerto Rico Electric Power Authority ("PREPA") filed a petition for review (the "Petition") of a final PSD permit issued to PREPA on March 2, 2000 by the U.S. EPA Region II ("Region"). Upon the request of the Region and with the consent of PREPA, the Board has extended the deadlines for the Region to file a written response to PREPA's Petition. The Board's extensions of the response deadlines were based on the Region's representations that it was engaged in settlement discussions with PREPA. Now, by motion dated July 28, 2000, PREPA requests that, because it and the Region have reached a settlement agreement, it be granted leave to withdraw its Petition.

Upon consideration, and except as otherwise provided in this order, PREPA's request for leave to withdraw its Petition

is hereby granted effective August 11, 2000, and PREPA's Petition will be deemed withdrawn as of that date.¹ In that PREPA is withdrawing its Petition and allowing the March 2, 2000 permit to go final, it shall be deemed, as of the effective date of this order, to have foregone any right to challenge further the terms of the March 2, 2000 permit.

The Board offers no view at this time regarding the parties' intention to seek amendment of the March 2, 2000 permit, which we understand is contemplated by the parties' settlement agreement. As a condition to granting PREPA's motion to withdraw its Petition, the Board expressly reserves its discretionary authority to entertain petitions for review filed by any interested party relating to any such amendments to the March 2, 2000 permit. The Board also expressly reserves its discretionary authority to review any revisions to the permit on its own initiative after service of notice of any revised permit. The Board's determination whether to review any revised permit, upon petition or on its own

¹If either the Agency or PREPA objects to the conditional nature of this order (as described in the succeeding paragraph of the text above), any such objections must be filed with, and received by, the Board on or before the close of business August 10, 2000. The filing of objections by either party shall operate to suspend the effective date of this order until further notice from the Board.

initiative, will in no way be limited in scope or affected by the parties' settlement agreement.²

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: 8/03/00

By: _____ /s/
Scott C. Fulton
Environmental Appeals Judge

²Accordingly, the Board expects the Region to make an independent on-the-record determination as to the necessity of the permit revisions, and their consistency with statutory and regulatory requirements. This determination must include in particular any revisions to startup-and-shutdown requirements for CO emissions. As explained in *In re Rockgen Energy Center*, PSD Appeal No. 99-1, slip op. at 26 (EAB, Aug. 25, 1999), 8 E.A.D. ____ , the permit issuer must make an on-the-record determination as to "whether compliance with existing permit limitations is infeasible during startup and shutdown, and, if so, what design, control, methodological or other changes are appropriate for inclusion in the permit to minimize the excess emissions during these periods."

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Request for Withdrawal of Petition For Review in the matter of Puerto Rico Power Authority, PSD Appeal No. 00-1, were sent to the following persons in the manner indicated:

By Facsimilie and U.S. Mail:

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Date: 8/03/00

_____/s/
Annette Duncan
Secretary