

**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 No. 00-13
Lander Street Permit)	
Docket No. ID002044-3)	
& ID002398-1)	
_____)	

ORDER GRANTING REMAND REQUEST

Respondent, U.S. EPA Region 10 ("Region 10"), has filed a motion asking that this case, involving NPDES permits for two wastewater treatment plants operated by City of Boise ("City"), be stayed. In the alternative, Region 10 requests a remand of the petition without prejudice. Region 10 represents that the City, the petitioner in this appeal, and Micron Technologies, Inc. ("MTI"), which has filed an amicus brief, have consented to its motion.

As a basis for its request, the Region states that proposed modified permits, that would replace the contested permits, were issued by Region 10 on August 17, 2000. According to Region 10, the proposed modified permits contain changes that will render moot many of the issues raised on appeal. Issuance of the final modified permits was delayed pending resolution of settlement discussions between the City, MTI, and Region 10. Region 10 states in its request that the parties have agreed on the majority of the issues raised by

the City in its Petition for Review. The primary remaining disagreement, which will be addressed in accordance with the settlement agreed to by Region 10, the City, and MTI, is whether metals limits are required in the permits.¹

Upon consideration, the Board hereby grants the Region's request for remand. This appeal is hereby remanded to Region 10 to allow it to proceed in accordance with the settlement agreement between Region 10, the City, and MTI.² This remand is without prejudice to the City's or Region 10's right to request reinstatement of the appeal, if that should prove necessary, by written notice to the Board.

So ordered.

Dated: 11/28/00

ENVIRONMENTAL APPEALS BOARD

By: _____ /s/ _____

Edward E. Reich
Environmental Appeals Judge

¹The parties have agreed that metals limits will be included in the modified permits with a two-year compliance schedule, and the City will be given a year under the modified permits to collect additional clean metals data from the POTW's effluent and the Boise River. If the study is performed as agreed, EPA will use that data to determine whether or not the metals limits are required and then proceed to modify the permits then in effect to remove the metals limit if it concludes modification is warranted.

²The Board at this time expresses no opinion as to the terms in the settlement agreement or proposed modified permits.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Remand Request in the matter of City of Boise NPDES Permits: West Boise & Lander Street, NPDES Appeal No. 00-13, were sent to the following persons in the manner indicated:

By First Class Mail Postage Prepaid:

Mark A. Ryan
Assistant Regional Counsel
U.S. EPA Region X
1200 Sixth Avenue
Seattle, WA 98101

Tad H. Shimazu
Williams, Kastner & Gibbs
Two Union Square
601 Union Street, Suite 4100
P.O. Box 21926
Seattle, WA 98101-2380

Kathryn B. Thompson
Sidley & Austin
1722 Eye Street, N.W.
Washington D.C. 20006

Dated: 11/29/00

_____/s/
Annette Duncan
Secretary