

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

_____)	
In re:)	
)	
NE Hub Partners, L.P.)	UIC Appeal Nos.
)	97-1 and 97-2
Permit Nos. PAS1X933BTIO)	
PAS3G934BTIO)	
_____)	

REMAND ORDER

By motion dated May 23, 1997, U.S. EPA Region III has requested that this matter be remanded to the Region for further consideration of "comments submitted [by petitioners Penn Fuel Gas, Inc. and CNG Transmission Corp.] during the permit issuance process." The Region states that on remand, following its reexamination of the petitioners' comments, it will "take the steps necessary to meet the substantive and procedural requirements of 40 C.F.R. Parts 124, 144 and 146 with respect to these permits." The petitioners have submitted a response to the Region's motion to remand, urging that the motion be granted subject to three proposed "clarifications" regarding the procedures to be employed by the Region on remand.

Two of the petitioners' proposed clarifications relate to the effect of the Region's February 18, 1997 permit decisions. The Region's motion to remand does not explicitly state that the February 18 permit decisions will be superseded by permit decisions to be issued at the conclusion of the proceedings on remand, and the petitioners therefore express uncertainty as to

(1) whether the February 18 permit decisions could somehow become effective if the Region's motion is granted, and (2) whether, after the conclusion of the proceedings on remand, their petitions seeking review of the February 18 permit decisions could simply be reinstated through some type of informal appeal procedure (involving "written notice to the Board") distinct from the procedure described in 40 C.F.R. § 124.19.' As we understand the Region's motion, the Region is proposing to issue new permit decisions' at the conclusion of the proceedings' **on remand**; therefore, the February 18 permit decisions would not become effective (see 40 C.F.R. § 124.15), but the petitioners would be required to comply with 40 C.F.R. § 124.19 in order to seek Board review of the permit decisions that the Region ultimately issues.

Finally, the petitioners ask that we specifically identify certain kinds of information that the Region should consider on remand and that, if considered by the Region **on remand, should be disseminated to "all** interested members of the public" for review **and** comment. We reject that request, and we leave it for the Region to manage the proceedings on remand as it deems appropriate, consistent with applicable regulatory requirements.

¹In connection with this proposed "clarification," the petitioners also request that the Board "accept Petitioners' appeal of the permit decisions before ordering the remand." Petitioners' Response to the Region's Motion for Voluntary Remand, at 2. We do not know what is meant by that request, and we **therefore decline to address it.**

²By "new" we simply mean afresh, and do not assume that the new permit decisions will necessarily be different from, or the **same** as, the current permit decisions.

The Region's Motion for Voluntary Remand is hereby granted; and UIC Appeal Nos. 97-1 and 97-2 are dismissed. The dismissal of Appeal Nos. 97-1 and 97-2 is without prejudice to the filing of new petitions for review, by these petitioners, following the Region's issuance of new permit decisions on remand.³

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: _____ - -
Ronald L. McCallum
Environmental Appeals Judge

Dated: *May 30, 1997*

³In any petitions for review filed after the issuance of new permit decisions, these petitioners will be able both to reassert objections already raised in their current petitions and to assert objections based on any changes made to the permit decisions on remand. Persons other than the petitioners, on the other hand, will be able to petition the Board for review of the new permit decisions only to the extent of any changes made on remand. See 40 C.F.R. § 124.19(a).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Remand Order in the matter of NE Hub Partners, L.P., UIC Appeal Nos. 97-1 and 97-2, were served upon the following persons in the manner indicated:

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Dated: *MAY 30 1997*