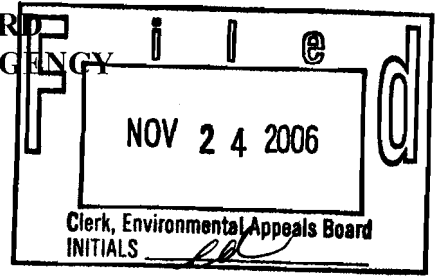


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



_____)
In re:)
)
Easley Combined Utilities) NPDES Appeal No. 06-10
)
NPDES Permit No. SC0039853)
_____)

**ORDER DENYING MOTION
FOR STAY OF PROCEEDINGS AND
ESTABLISHING BRIEFING DEADLINE**

On November 13, 2006, Region IV of the U.S. Environmental Protection Agency filed a motion for a second stay of the proceedings in the above-captioned matter. Region IV reports that it plans to propose a permit modification to remove certain effluent flow limitations included in the final permit and challenged by petitioner Easley Combined Utilities (“ECU”) in its petition for review of the permit. The Region believes that it is in the interest of judicial economy to stay the appeal proceedings while the Region processes this specific permit modification and “any other modifications that may be necessary[,] before considering the remaining challenges to the permit.” Motion to Stay the Petition at 1. Region IV states that it intends to discuss with ECU the three other issues raised on appeal and plans to “include any negotiated changes in the proposed permit or file a response” to ECU’s petition. *Id.* The Region requests a stay of the petition until January 19, 2007. *Id.* at 2.

On November 20, 2006, ECU filed a response opposing Region IV’s motion for a stay. ECU contends that no settlement discussions have been initiated in this case and thus it has no basis for believing that a full or partial settlement of the challenged issues is likely. In the absence of specific settlement proposals, ECU thinks a more likely outcome is that the three disputed permit issues will have to be decided by the Environmental Appeals Board. Response

to EPA Motion to Stay at 2, 3-4. ECU argues that “mere delay is not equivalent to judicial economy,” and it claims that a further stay will prejudice its right to timely review of its petition.

In view of all the facts and circumstances of this case to date, the Board finds that Region IV has failed to establish good cause to support a further stay of the appellate proceedings, and its motion is therefore **DENIED**. The Region is accordingly ordered to file its response to the petition for review on or before **Friday, December 22, 2006**. The Board will retain jurisdiction over the effluent flow limitation issue pending Region IV’s action on the proposed permit modification, and the parties are of course free to initiate and engage in settlement negotiations at any time during the Board’s processing of the appeal.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: November 24, 2006

By: Kathie A. Stein
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Denying Motion for Stay of Proceedings and Establishing Briefing Deadline** in the matter of Easley Combined Utilities, NPDES Appeal No. 06-10, were sent to the following persons in the manner indicated:

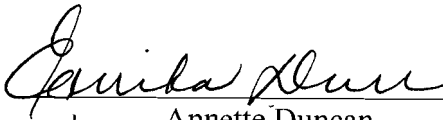
By Facsimile and First Class U.S. Mail:

F. Paul Calamita, Esq.
Richard H. Sedgley, Esq.
AquaLaw P.L.C.
801 East Main Street
Richmond, Virginia 23219
telephone: (804) 716-9021
facsimile: (804) 716-9022

By Facsimile and EPA Pouch Mail:

Philip G. Mancusi-Ungaro, Esq.
U.S. Environmental Protection Agency, Region IV
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
telephone: (404) 562-9519
facsimile: (404) 562-9486

Dated: 11/24/2006


for Annette Duncan
Secretary