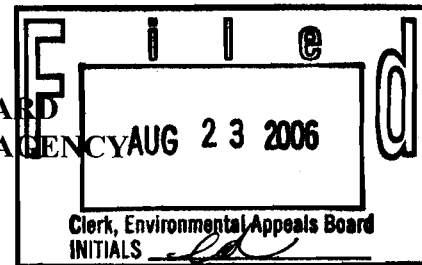


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



_____)
In re:)
)
Blue Plains Wastewater Treatment Plant) NPDES Appeal Nos. 05-01
) and 05-02
NPDES Permit No. DC0021199)
_____)

**ORDER DISMISSING PETITIONS FOR REVIEW
AND STAYING ONE ISSUE**

On August 11, 2006, the Region III Administrator of the U.S. Environmental Protection Agency filed with the Environmental Appeals Board (“Board”) a notice withdrawing Parts III.E.1-.4 of NPDES Permit No. DC0021199, a final modified Clean Water Act discharge permit issued by Region III to the District of Columbia Water and Sewer Authority (“WASA”) for the Blue Plains Wastewater Treatment Facility in Washington, D.C. The Regional Administrator is authorized to take this action under 40 C.F.R. § 124.19(d).

The withdrawn provisions are the focus of two petitions for review filed with the Board in January 2006, one by WASA (designated as NPDES Appeal No. 05-02) and another by Friends of the Earth and the Sierra Club (“FoE/SC”) (designated as NPDES Appeal No. 05-01). Since the filings of these two petitions, Region III and the petitioners have engaged in extensive negotiations regarding the disputed permit conditions. The parties recently concluded that they are unable to reach a negotiated settlement of all their disputes, and Region III decided to withdraw the contested permit terms and propose modifications to those terms. The Region plans to prepare a new draft permit addressing the withdrawn permit conditions and will submit the revised permit terms for public comment in the near future.

Accordingly, on August 21, 2006, Region III filed a "Motion on Consent to Dismiss" FoE/SC's petition in its entirety and WASA's petition as to all issues save one. The one outstanding issue consists of WASA's request for Board review of Region III's decision not to include in the permit a compliance schedule for implementation of WASA's Combined Sewer Overflow Long Term Control Plan. The parties seek a 180-day stay of Region III's deadline to respond to this specific issue, as WASA may yet seek to dismiss its challenge on this issue depending on the nature of the forthcoming proposed permit modifications.

For good cause shown, NPDES Appeal Nos. 05-01 and 05-02 are hereby **DISMISSED WITH PREJUDICE**, in their entireties, except for WASA's sole outstanding issue, which is hereby **STAYED** until Tuesday, February 20, 2007.¹ On or before the end of the stay period, Region III and WASA must file a report with the Board describing the status of this issue and whether the matter should proceed for consideration by the Board. These dismissals with prejudice have no effect on the petitioners' rights to submit comments on draft permit revisions or modifications pursuant to 40 C.F.R. § 124.11, to later petition the Board for appropriate additional permit modifications pursuant to 40 C.F.R. §§ 124.5 and 122.62, or to challenge any future EPA action with respect to NPDES Permit No. DC0021199 or any other permit on any grounds.

So ordered.

Dated: August 23, 2006

ENVIRONMENTAL APPEALS BOARD

By: Anna L. Wolgast
Anna L. Wolgast
Environmental Appeals Judge

¹ Region III's "Motion on Consent to Extend Stay of Proceedings," filed with the Board on August 17, 2006, and seeking a stay of briefing in this matter for an additional seven days, or until August 24, 2006, is hereby GRANTED. The 180-day period runs from this latter date.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Dismissing Petitions for Review and Staying One Issue** in the matter of Blue Plains Wastewater Treatment Plant, NPDES Appeal Nos. 05-01 and 05-02, were sent to the following persons in the manner indicated:

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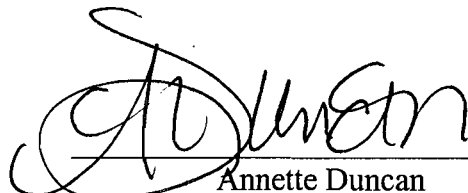
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Dated: AUG 23 2006



Annette Duncan
Secretary