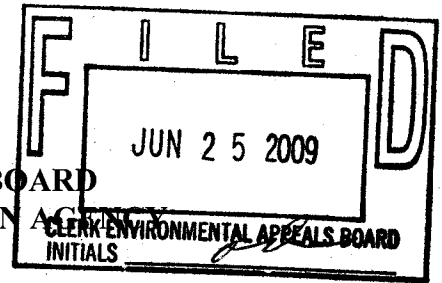


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC



In re:

Environmental Disposal Systems, Inc.

UIC Permit Nos. MI-163-1W-C007 and
MI-163-1W-C008

UIC Appeal No. 07-03

**ORDER GRANTING THIRD STAY AND REQUESTING
REGION 5 TO FILE STATUS REPORT**

In their Joint Status Report dated June 17, 2009, U.S. Environmental Protection Agency ("EPA"), Region 5 ("Region") and the Police and Fire Retirement System of the City of Detroit, RDD Investment Corporation, and RDD Operations, LLC, (collectively, "PFRS/RDD") request an additional four-month stay of the effective date of the Environmental Appeals Board's ("Board") order denying review of the Region's decision to terminate the above-captioned permits. Joint Status Report (June 17, 2009); *see In re Env'tl. Disposal Sys., Inc.*, UIC Appeal No. 07-03, slip op. (EAB July 18, 2008), 14 E.A.D. ____ ("Order Denying Review"). The Board previously granted two stays of the effective date of the Order Denying Review to allow sufficient time for the Region to review and issue a draft decision on a third party's application for permits to operate the wells at issue in this case. Order Denying Motion for Reconsideration and Granting Stay (Aug. 25, 2008) (granting stay until February 18, 2009); Order Granting Stay (Feb. 19, 2009) (granting stay until June 19, 2009).

The Region and PFRS/RDD now represent that the Region's decision on the third-party's permit application "has been unavoidably delayed [but that] EPA * * * expects to issue a decision on the permit application in the very near future." Joint Status Report at 2. The

additional extension of the stay is sought to “allow the EPA to complete its review of the permit application and issue a decision that may affect [the above-captioned] proceedings.” *Id.*

For good cause shown, the Board **GRANTS** a one-month stay of the effective date of the Order Denying Review, until July 19, 2009.¹ Additionally, on or before July 10, 2009, the Region shall submit a status report regarding the projected timing of the aforementioned permit application review and decision. Either party may submit, prior to July 19, 2009, a motion to vacate the stay. Once the Board receives the Region’s filing, it will determine whether a further stay and of what duration would be appropriate.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: June 24, 2009

By: 

Edward E. Reich
Environmental Appeals Judge

¹ As noted in the August 25, 2008 Order Denying Motion for Reconsideration and Granting Stay and February 19, 2009 Order Granting Stay, for purposes of judicial review, a final agency action occurs only after “the Environmental Appeals Board issues notice to the parties that review has been denied[.]” 40 C.F.R. § 124.19(f)(1)(i). The Board’s Order Denying Review shall not constitute such notice while the effective date of the decision remains stayed.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Third Stay and Requesting Region 5 to File Status Report in *Environmental Disposal Systems, Inc.*, UIC Appeal No. 07-03, were sent to the following persons in the manner indicated:

**By Certified U.S. Mail,
Return Receipt Requested (and facsimile):**

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Date: JUN 25 2009



Annette Duncan
Secretary