

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

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ENVIR. APPEALS BOARD

In re: South Carolina Electric & Gas
Company – Cope Station

NPDES Permit No. SC 0045772

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) NPDES Appeal No. 06-09
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**STATUS REPORT ON PERMIT MODIFICATION AND MOTION TO STAY
THE PETITION**

Counsel for Petitioner, South Carolina Electric & Gas Company (SCE&G) and the U.S. Environmental Protection Agency (EPA) Region 4 had jointly requested that the Environmental Appeals Board (EAB) stay all proceedings in the above-captioned matter. On January 31, 2007, the EAB granted the stay, until April 30, 2007. In the January 31, 2007 Order Granting Motion to Stay the Petition (Order) the EAB allowed time for the permitting process to move forward and noted that if the parties do not reach resolution of the matters raised in the petition by such date, the Region must file a response by April 30, 2007.

As noted previously, EPA issued a notice of the proposed permit modification on January 11, 2007 seeking public comment and Section 401 Certification from the State. The public comment period closed and only SCE&G commented on the proposed permit. The state issued a section 401 certification on February 19, 2007. The Section 401 Certification was challenged by the Petitioner on March 6, 2007 concerning mercury limits which were slightly more stringent than the level in the proposed permit. Under state law that challenge prevents the certification from taking effect. The challenge process has not been concluded, and there is no effective certification at this time. As a result EPA has not determined when to issue the final modified permit as of this date.

In the original petition to the EAB, SCE&G challenged the conditions related to the monthly average and daily maximum limits for mercury and for iron and manganese. EPA's proposed modification to the permit changed the original limits for iron and manganese based on the discussions between EPA and SCE&G and there are no issues remaining for those parameters. EPA's proposed modification also changed the basis for the mercury limit, which modified the actual limit slightly as the underlying water quality basis had changed. The proposed permit contains a limit and a compliance schedule during which petitioner must monitor and report mercury levels which EPA felt had addressed petitioners concerns. However Petitioner still has concerns the mercury limit in the permit and as noted above, the section 401 challenge is not complete. In order to reach final closure on the mercury issue, EPA has continued the discussions with Petitioner and has discussed ways to address this concern. Accordingly, EPA is seeking an additional 60 days to complete this process and to allow time for the 401 certification challenge to reach closure. Counsel for EPA has discussed this with opposing counsel and they do not oppose seeking time to continue these discussions.

For the reasons set forth above, and in the interest of judicial economy, counsel for EPA respectively request that the Joint Motion for a Stay of the Petition pending the completion of the permit modification be granted by the Environmental Appeals Board.

Respectfully submitted this 27th day of April, 2007.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, Region 4**



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