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

Filed
OCT 6 2016
Clerk, Environmental Appeals Board
INITIALS

In re: Atkinson Developers, LLC & Francis M. Atkinson, Jr. Docket No. CWA-04-2010-5515	)))))))	CWA Appeal No. 16-03

ORDER VACATING ORDER ELECTING TO EXERCISE *SUA SPONTE* REVIEW

On September 20, 2016, the Environmental Appeals Board ("Board") issued an order electing to exercise *sua sponte* review in the above-captioned matter. The Order noted concerns about the Certificate of Service that accompanied the August 4, 2016 Default Initial Decision and Order ("Default Order") issued by the Acting Regional Judicial Officer for the United States Environmental Protection Agency Region 4 ("Region"). In particular, the Board noted a discrepancy between the method of service reflected on the Certificate of Service accompanying the Default Order and the actual method of service that occurred. The Board directed the Regional Hearing Clerk to amend the Certificate of Service to reflect the actual method of service of the Default Order. The Board also directed the Region to provide a copy of the amended certificate of service to Respondents and provide a status report to the Board by October 20, 2016.

The Board received the status report together with the Amended Certificate of Service on September 28, 2016. The accompanying notice states that the Amended Certificate of Service was re-issued to reflect the actual form of service used on August 9, 2016, to serve the Default Order on Respondents, Atkinson Developers, LLC and Francis M. Atkinson.

The Board is now satisfied that the record regarding the method of service of the Default Order has been corrected. The Board therefore vacates its order electing to exercise *sua sponte* review. The Default Order becomes a final order, without further proceedings, 45 days after service of this order. *See* 40 C.F.R. §§ 22.1(c), 22.4(a)(2), and 22.27(c).

So ordered.[1]

ENVIRONMENTAL APPEALS BOARD

Dated: 10/06/16

By: _____
Aaron P. Avila
Environmental Appeals Judge

[1] The three-member panel deciding this matter is composed of Environmental Appeals Judges Aaron P. Avila, Kathie A. Stein and Mary Beth Ward.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **Order Vacating Order Electing to Exercise *Sua Sponte* Review** in the matter of *Atkinson Developers, LLC & Francis M. Atkinson, Jr.*, CWA Appeal No. 16-03, were sent to the following persons in the manner indicated:

Via EPA Pouch Mail:

Ms. Wilda Cobb
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

Ms. Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

Via Certified First Class U.S. Mail, return receipt requested:

Mr. Francis M. Atkinson, Jr.
Atkinson Developers, LLC
4368 Green Sea Road, South
Aynor, SC 29511

Dated: OCT - 6 2016

Annette Duncan, Secretary
U.S. Environmental Protection Agency
Environmental Appeals Board