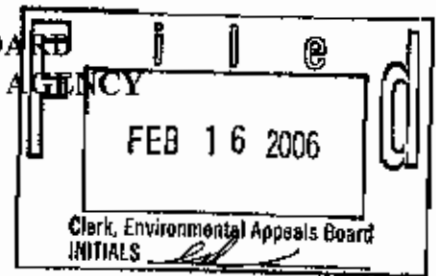


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



_____)
In re:)
)
Milliken & Company)
)
)
_____)

NPDES Appeal No. 06-04

ORDER GRANTING STAY

By joint motion, the United States Environmental Protection Agency, Region 4 ("Region"), and Milliken & Company ("Milliken" or "Petitioner") have requested a stay of the proceedings until May 1, 2006, in this National Pollutant Discharge Elimination System ("NPDES") permit appeal under the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251-1387. *See* Joint Motion to Stay the Petition ("Motion") at 1.

On November 30, 2005, the Region issued an NPDES permit to Petitioner for discharges of processed wastewater, utility water, and stormwater from Milliken's facility in Abbeville, South Carolina. On January 5, 2006, Milliken filed a Petition for Review ("Petition") pursuant to 40 C.F.R. § 124.19(a). In its Petition, Milliken challenges two permit conditions: (1) the Region's inclusion of an acute whole effluent toxicity ("WET") effluent limitation and (2) the Region's inclusion of an acute whole effluent toxicity testing program. Petition at 1. Milliken claims that the Region "did not lay a supportable foundation" for these permit conditions for the

Final Permit. *Id.* at 2. Petitioner also argues that the Final Permit contains “impermissible enforcement obligations” under the WET Rule. *Id.* at 5.

Upon receiving Milliken’s appeal, the Environmental Appeals Board (“Board”) sent a copy to the Region and requested that the Region respond to Petitioner’s contentions by February 22, 2006. Thereafter, on February 1, 2006, the Board received the above-mentioned joint motion to stay from the parties.

The parties’ Motion states that the parties have negotiated a proposed modification to the permit and that, after notice and comment, if the permit is issued in a manner that reflects this negotiated agreement, the issues raised in the Petition should be resolved. Motion at 1. The Region states that it has already published a Notice of Permit Modification on January 11, 2006, that reflects this proposed modification. *Id.* Absent any challenges to the proposed modification or delays in receiving South Carolina’s CWA section 401 certification, the Region anticipates that the permit would go into effect on April 1, 2006. *Id.* The parties therefore request a stay until May 1, 2006. *Id.* The parties also propose to report to the Board on the status of the modification by April 5, 2006. *Id.* The parties contend that staying the permit appeal will allow them to resolve the issues through the permit modification process and will conserve resources and promote judicial economy. *See id.* at 1-2.

Upon consideration of the foregoing and for good cause shown, the parties’ Motion is GRANTED. Accordingly, the above-captioned matter is hereby STAYED until May 1, 2006,

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Stay in the matter of Milliken & Company, NPDES Appeal No. 06-04, were sent to the following persons in the manner indicated:

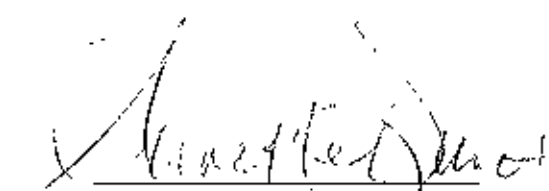
Pouch Mail
and facsimile:

Philip G. Mancusi-Ungaro
Attorney-Advisor
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9486 (fax)

First Class Mail,
Postage Prepaid
and facsimile:

Lee A. DeHihns, III
Alston & Bird, LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3424
(404) 253-8569 (fax)

Dated: FEB 16 2006



Annette Duncan
Secretary