

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

In re:)	
)	
Thomas Kelly and Jonathan Prisk)	CWA Appeal No. 98-(8)
)	
Docket No. CWA-AO-028-94)	
)	

**ORDER DECLINING TO SUSPEND IMPLEMENTATION
OF THE DECISION AND ORDER OF THE REGIONAL ADMINISTRATOR**

On August 10, 1998, the Decision and Order of the Regional Administrator (the "Order") in the above-captioned matter was served on counsel for the respondents Thomas Kelly and Jonathan Prisk. Pursuant to the terms of the Order, the Environmental Appeals Board as the Administrator's delegate may on or before September 15, 1998, suspend implementation of the Order. See Order at 19 (referring to Section 28.29 of the proposed Non-APA Consolidated Rules of Practice for Administrative Assessment of Civil Penalties, 56 Fed. Reg. 29.997 (July 1, 1991), which serve as guidance in this matter). The Board hereby declines to suspend implementation of the Order. Although the Respondents argued at the hearing and in their post-hearing brief that the 1987 version of the Wetlands Delineation Manual is the applicable guidance manual for determining whether the site at issue in this

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER DECLINING TO SUSPEND IMPLEMENTATION OF THE DECISION AND ORDER OF THE REGIONAL ADMINISTRATOR, in the matter of Thomas Kelly and Jonathan Prisk, CWA Appeal No. 98-(8), were sent to the following persons in the manner indicated:

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Dated: 9/11/98

_____/s/
Annette Duncan
Secretary