

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

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In the Matter of:	)	
	)	
Buckeye Florida, L.P.	)	NPDES Appeal No. 97-2
	)	
Permit No. FL0000876	)	

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ORDER DISMISSING PETITION FOR REVIEW

On July 10, 1997, U.S. EPA Region IV filed a motion to dismiss the petition for review in the above-captioned matter on the grounds that the issues raised in that petition have become moot by the expiration of the permit underlying the petition. By this order, we are granting that motion.

Buckeye Florida, L.P. ("Buckeye") operates a pulp and paper mill in Perry, Florida, that discharges wastewater into the Fenholloway River under an NPDES permit issued to it by the Region. In the course of the most recent renewal of the permit, a citizens' group entitled Help Our Polluted Environment ("HOPE") requested and was granted an evidentiary hearing on the permit. On March 17, 1997, the presiding officer granted the Region's "Motion for Summary Determination" on the issues raised by HOPE's evidentiary hearing request. On April 2, 1997, HOPE filed a petition for review of the presiding officer's decision with this Board, pursuant to 40 C.F.R. § 124.91.

The permit at issue, by its own terms, expired on June 30, 1997, shortly after this petition for review was filed. On May 1, 1995, while the most recent permit renewal process was

proceeding, the Region transferred to the State of Florida the authority to issue NPDES permits. The agreement between the Region and the **State of Florida** effecting this transfer provides that:

For permits for which an evidentiary hearing has been requested at the time of program authorization [at the time of the transfer of authority], EPA will retain full jurisdiction until that matter has been resolved. **Upon resolution of the administrative challenge or expiration of the permit, EPA** will notify [the State of Florida] and the permittee that full jurisdiction of the permit has been transferred to the [State of Florida].

Memorandum of Agreement at D-7 (emphasis added).

The Region acknowledges that until the State of Florida issues an NPDES permit to this facility, the terms and conditions of the expired EPA-issued NPDES permit continue to govern Buckeye's discharge under 40 C.F.R. § 122.6(d) and § 62-20.100(2) (k)3 Fla. Admin. Code (FAC) (1996), but nevertheless argues that the issues raised in the petition for review have become moot because upon the expiration of the permit, the authority to address these issues transferred to the State of Florida pursuant to the Memorandum of Agreement cited above.

Counsel for **HOPE**, in a telephone conversation with counsel for this Board on July 14, 1997, explained that it would not be filing a response to the Region's motion, and had no grounds to object to the motion.

In light of the apparent lack of opposition to the Region's motion to dismiss, the motion is hereby granted. The petition for review in the above-captioned matter is dismissed on the

grounds that the issues raised therein have become moot by the expiration of the permit under the Memorandum of Agreement between the Region and the State of Florida.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: JUL 16 1997

By: \_\_\_\_\_  
Edward E. Reich  
Environment & Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Dismissing Petition for Review in the matter of Buckeye Florida, L.P., NPDES Appeal No. 97-2 were served upon the following persons in the manner indicated:

By Fax and  
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Dated: JUL 16 1997

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-Mildred T. Johnson  
Secretary