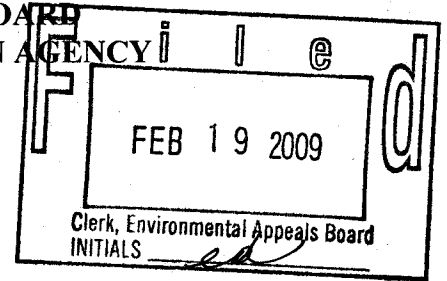


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC



In re:

Environmental Disposal Systems, Inc.
UIC Permit Nos. MI-163-1W-C007 and
MI-163-1W-C008

UIC Appeal No. 07-03

ORDER GRANTING STAY

In their Joint Status Report dated February 17, 2009, U.S. Environmental Protection Agency ("EPA"), Region 5 ("Region") and the Police and Fire Retirement System of the City of Detroit, RDD Investment Corporation, and RDD Operations, LLC, (collectively, "PFRS/RDD") request an additional four-month stay of the effective date of the Environmental Appeals Board's ("Board") order denying review of the above-captioned permits. Joint Status Report (Feb. 17, 2009); *see In re Env'tl. Disposal Sys., Inc.*, UIC Appeal No. 07-03, slip op. (EAB July 18, 2008), 14 E.A.D. ___ ("Order Denying Review"). The Board previously granted a six-month stay of the effective date of the Order Denying Review, until February 18, 2009, to allow sufficient time for the Region to review and issue a draft decision on a third party's application for permits to operate the wells at issue in this case. Order Denying Motion for Reconsideration and Granting Stay (Aug. 25, 2008).

The Region and PFRS/RDD now represent that the Region is unable to complete review of the permit application prior to the expiration of the stay. However, "EPA expects a decision on the permit application in the near future[.]" and the parties believe that an "extension of the stay is appropriate to allow the EPA to complete its review of the permit application and issue a decision * * *." Joint Status Report at 2.

For good cause shown, the Board **GRANTS** the request to stay the effective date of the Order Denying Review until June 19, 2009.¹ On or before June 19, 2009, the parties shall submit a report regarding the status of the permit application and shall include a discussion of whether it is appropriate to continue the stay. Either party may submit, prior to that date, a motion to vacate the stay.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: February 19, 2009

By: 

Edward E. Reich
Environmental Appeals Judge

¹ As noted in the Order Denying Motion for Reconsideration and Granting Stay, for purposes of judicial review, a final agency action occurs only after “the Environmental Appeals Board issues notice to the parties that review has been denied[.]” 40 C.F.R. § 124.19(f)(1)(i). The Board’s Order Denying Review shall not constitute such notice while the effective date of the decision remains stayed.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Stay in *Environmental Disposal Systems, Inc.*, UIC Appeal No. 07-03, were sent to the following persons in the manner indicated:

**By Certified U.S. Mail,
Return Receipt Requested (and facsimile):**

Joseph E. Turner
Ronald A. King
Kristin B. Bellar
Clark Hill PLC
212 East Grand River Avenue
Lansing, MI 48906
Facsimile: (517) 318-3099

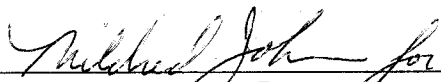
By EPA Pouch Mail (and facsimile):

Thomas J. Kreuger
Associate Regional Counsel
U.S. EPA, Region 5
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Chicago, IL 60604
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By EPA Interoffice Mail:

Mindy G. Nigoff
Office of General Counsel
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460

Date: FEB 19 2009



Annette Duncan
Secretary