

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

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In re:	)	
	)	
	)	NPDES APPEAL No. 14-04
Lee Ranch Coal Company,	)	
El Segundo Mine	)	
	)	
NPDES Permit No. NM0030996	)	
	)	

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**PETITIONER LEE RANCH COAL COMPANY’S MOTION TO DISMISS PETITION  
FOR REVIEW**

Pursuant to 40 C.F.R. Section 124.19(k), Petitioner Lee Ranch Coal Company (“LRCC”) hereby moves to dismiss its Petition for Review in the subject proceeding. The U.S. Environmental Protection Agency (“EPA”), Region 6 (“Region 6”) has informed LRCC that it concurs with subject Motion to Dismiss in accordance with 40 C.F.R. Section 124.19(f)(2).

On November 3, 2014, pursuant to 40 C.F.R. § 124.19(a), LRCC filed a petition for review of National Pollution Discharge Elimination System (“NPDES”) Permit No. NM0030996 (the “Permit”), which was issued by Region 6 on September 30, 2014 (the “Petition”). Two permit conditions are at issue in the Petition: (1) the total dissolved solids effluent limitation, as set forth in Part I.A(5) of the Permit, and (2) the sediment control plan (“SCP”) under the Western Alkaline Coal Mining (“WACM”) Rule, as set forth in Part I.A(6) of the Permit (collectively, the “Contested Conditions”).

After reaching the terms of a settlement, on August 14, 2015, Region 6 and LRCC filed a Joint Motion to Stay the Proceedings to allow time for the execution of the agreement and to effectuate its terms. On August 20, 2015, the EPA Environmental Appeals Board (“Board”)

granted the motion and stayed the matter until December 14, 2015. On December 18, 2015, the Board granted an extension of the stay until January 15, 2016.

As previously reported in status reports, on August 21, 2015, the Settlement Agreement was fully executed by the Parties. On September 17, 2015, Region 6 proposed a draft permit for public comment to address the Contested Conditions, with a comment period open until October 19, 2015. On October 9, 2015, after reviewing the proposed draft permit for public comment, LRCC informed Region 6 of its belief that the proposed draft permit modification impermissibly deviated from the terms of the Settlement Agreement. Thereafter, the Parties conferred and worked toward a resolution of the issue. Region 6 extended the public comment period for the draft permit until November 9, 2015.

On December 18, 2015, Region 6 took final action and issued the Modification to NPDES Permit No. NM0030996. In accordance with the terms of the Settlement Agreement, LRCC finds that Region 6 has adopted acceptable modifications to the Permit. LRCC and Region 6 have been able to resolve the Contested Conditions pending before the Board in this proceeding. Accordingly, LRCC respectfully requests that the Board grant its Motion to Dismiss the Petition.

Date: December 29, 2015

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I, Peter R. Duchesneau, hereby certify that on this 29th of December, 2015, I served a copy of the foregoing Petitioner Lee Ranch Coal Company's Motion To Dismiss Petition For Review on the parties identified below by email.

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