



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

In re Tulalip Tribes of Washington –
Wastewater Treatment Plant
&
Lummi Tribal Sewer and Water District –
Gooseberry Point Wastewater Treatment
Plant & Sandy Point Wastewater Treatment
Plant
NPDES Permit Nos. WA 0024805,
WA 0025666, WA 0025658
NPDES Appeal Nos. 24-02 & 24-03

ORDER GRANTING MOTION TO DISMISS PETITIONS

The Northwest Environmental Advocates (“NWEA”) filed with the Environmental Appeals Board two petitions seeking review of three NPDES permit decisions issued by Region 10 of the U.S. Environmental Protection Agency to three different wastewater treatment facilities located in the state of Washington—the Tulalip Tribes of Washington Wastewater Treatment Plant (NPDES Permit No. WA0024805), Sandy Point Wastewater Treatment Plant (NPDES Permit No. WA0025658), and Gooseberry Point Wastewater Treatment Plant (NPDES Permit No. WA0025666). The Board granted the Region’s and NWEA’s joint motion to consolidate the two petitions and extended the briefing schedule. Order Granting Joint Motion to Consolidate Petitions for Review and for Extension of Time (Sept. 24, 2024). The Board established November 7, 2024, as the deadline for the consolidated response brief; and December 6, 2024, as the deadline for any reply brief. Id. at 2.

On November 6, 2024, the Region filed a notice that, pursuant to 40 C.F.R. § 124.19(j), the Region “was hereby withdrawing” the three permits at issue in this consolidated matter and

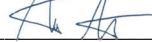
that the Region will prepare new draft permits that address the issues on appeal. Notification of Withdrawn Permits at 2 (Nov. 6, 2024). Section 124.19(j) allows a permit issuer, upon notification to the Board and any interested parties, to unilaterally withdraw a permit at any time prior to thirty days after the permit issuer files its response to a petition and prepare a new draft permit. 40 C.F.R. § 124.19(j); *see also In re Savoy Energy, L.P.*, 17 E.A.D. 200, 201-03 (EAB 2016). Here, the Region has withdrawn the permits before the filing of its response brief and notified the Board and all parties that it has done so and would prepare a new draft permit in accordance with 40 C.F.R. § 124.6. Notification of Withdrawn Permits at 2. The Region requests that the Board dismiss the petitions on the grounds that they are moot. Motion to Dismiss at 3; Notification of Withdrawn Permits at 2.

Given the Region’s withdrawal of the permits at issue the Board **GRANTS** the Region’s motion and dismisses the consolidated petitions. 40 C.F.R. §§ 124.19(f), (n). This dismissal has no effect on NWEA’s right to submit comments on subsequent draft permit revisions or modifications pursuant to 40 C.F.R. § 124.11, or to petition the Board for review pursuant to 40 C.F.R. § 124.19 of any future EPA action with respect to the NPDES permits at issue here.

So ordered.¹

Dated: Nov 13, 2024

ENVIRONMENTAL APPEALS BOARD

By: 

Aaron P. Avila
Environmental Appeals Judge

¹ The three-member panel deciding this matter is composed of Environmental Appeals Judges Aaron P. Avila, Mary Kay Lynch, and Ammie Roseman-Orr.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Granting Motion to Dismiss Petitions* in the matter of Tulalip Tribes of Washington & Lummi Tribal Sewer and Water District, NPDES Appeal Nos. 24-02 & 24-03 were sent to the following persons in the manner indicated.

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Dated: Nov 13, 2024



Emilio Cortes
Clerk of the Board