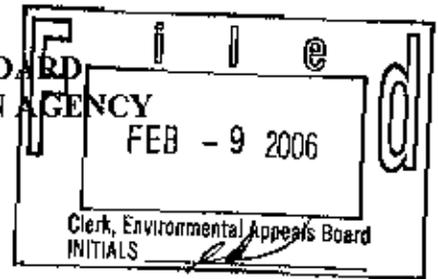


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)
)
Texon USA) NPDES Appeal No. 05-14
)
)
NPDES Permit No. MA0005282)
)

ORDER DISMISSING PETITION FOR REVIEW

On January 30, 2006, Region I of the U.S. Environmental Protection Agency filed a motion to dismiss the above-captioned permit appeal. The Region reports that it consulted with Texon USA, the permittee and petitioner in this case, about the permit condition contested by Texon and subsequently withdrew that condition and issued a draft permit modification replacing the condition with an alternative requirement. The Region received no public comments on the draft permit modification. On January 21, 2006, the Region issued a final permit modification incorporating the alternative requirement in the place of the withdrawn contested condition. The Region now seeks dismissal of this matter because the withdrawal and replacement of the permit condition at issue have rendered the appeal moot. The Region notes that Texon assents to the dismissal of its appeal.

For good cause shown, Texon's petition for review of NPDES Permit No. MA0005282 is hereby **DISMISSED WITH PREJUDICE**.

So ordered.

Dated: *February 9, 2006*

ENVIRONMENTAL APPEALS BOARD
By: *Anna L. Wolgast*
Anna L. Wolgast
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Dismissing Petition for Review** in the matter of **Texon USA**, NPDES Appeal No. 05-14, were sent to the following persons in the manner indicated:

By Facsimile and First Class Mail:

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Date: FEB 19 2006


Annette Dunearn
Secretary