

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



In the Matter of:)
Guardian Industries Corp.) PSD Appeal Nos. 97-9, 97-10
Permit No. B-3205-00041/00001)

ORDER DISMISSING PETITIONS FOR REVIEW

On April 28, 1997, Citizens' Environmental Coalition ("CEC") filed a petition for review of a PSD permit issued by the State of New York's Department of Environmental Conservation ("NYDEC") to Guardian Industries, Inc. ("Guardian") on April 1, 1997, for the construction of a flat glass plant in Geneva, New York. On May 1, 1997, Peter Goodman filed a petition for review of the same permit. Pursuant to a request from this Board, NYDEC responded to the two petitions on May 29, 1997. Guardian also filed a response to the petitions, and requested the Board to consider its response, a request the Board granted.

Since that time, the four parties to this proceeding (CEC, Peter Goodman, Guardian and NYDEC), with the aid of U.S. EPA Region II, have been actively engaged in settlement negotiations. The parties requested, and the Board granted, several stays in this matter in order for the negotiations to proceed. The most recent stay expired on August 20, 1997.

On August 15, 1997, the parties filed a status report with this Board indicating that they had resolved all but one issue, which they expected to resolve before the August 20, 1997

expiration of the stay. Apparently, that issue has been resolved, **because** on August 20, 1997, the petitioners filed, by facsimile, a motion to dismiss their petitions for review with prejudice on the grounds that the issues raised therein are now 'moot.'

The petitioners' motion is hereby granted, and the petitions for review are dismissed with prejudice. Accordingly, the file in each of the above-referenced docket numbers is closed.

So ordered.

ENVIRONMENTAL, APPEALS BOARD

Dated: *August 21, 1997*

By: _____
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Dismissing Petitions for Review in the Matter of Guardian Industries Corp., PSD Appeal Nos. 97-9, 10, were sent to the following persons in the manner indicated:

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Dated: AUG 21 1997

Mildred P. Johnson
Secretary