



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

_____)	
In re:)	
)	
Veolia ES Technical Solutions, L.L.C.)	CAA Appeal No. 17-02
)	
Permit No. V-IL-1716300103-2014-10)	
_____)	

**ORDER GRANTING UNOPPOSED MOTION FOR VOLUNTARY REMAND AND
DISMISSING PETITION FOR REVIEW**

In February 2017, Veolia ES Technical Solutions, L.L.C. (“Veolia”) filed a petition before the Environmental Appeals Board (“Board”) seeking review of a Title V renewal permit (“Permit”) issued by U.S. EPA Region 5 (“Region”). At the request of the parties, the Board has stayed proceedings in this case while the parties engaged in settlement discussions. In October, the parties advised the Board that they had agreed to the terms of and signed a contingent Settlement Agreement subject to public notice and comment pursuant to 42 U.S.C. § 7413(g), CAA § 113(g). In November, the Region published a notice in the Federal Register seeking comment on the Settlement Agreement, stating that if the Agreement is finalized, the Region would seek a voluntary remand of the Permit and “put out a [revised] draft CAA Title V renewal permit for [a] separate public notice and comment period.” Proposed Settlement Agreement, Clean Air Act Title V Permit Appeal, 82 Fed. Reg. 52,901 (Nov. 15, 2017).

The parties now advise the Board that, after considering public comments on the agreement pursuant to 42 U.S.C. § 7413(g), EPA “has reached a final decision not to withhold or withdraw consent from the contingent settlement agreement between the Parties.” Joint Status Report, Unopposed Motion for Voluntary Remand, and Joint Motion to Dismiss Without

Prejudice if Voluntary Remand is Granted at 1 (Mar. 28, 2018). The Region requests a voluntary remand of the Permit, and if the Board grants the motion for a remand, the parties jointly move for dismissal of this petition without prejudice.

The Board has broad discretion to grant a remand request, and it “will typically grant a motion [for remand] where the permit issuer ‘shows good cause for its request and/or granting the motion makes sense from an administrative or judicial efficiency standpoint.’” *In re Peabody W. Coal*, 14 E.A.D. 712, 718 (EAB 2010) (granting voluntary remand of Title V permit in appeal under 40 C.F.R. § 71.11) (quoting *Desert Rock Energy Co.*, 14 E.A.D. 484, 497 (EAB 2009) (granting voluntary remand of permit in appeal under 40 C.F.R. § 124.19)).

In light of the foregoing, the Board concludes that good cause exists to grant the Region’s motion for voluntary remand and the parties’ joint motion to dismiss. Accordingly, the Board remands the Permit to the Region and dismisses this petition for review without prejudice. The Board notes that any permit action that the Region takes on remand must be done in accordance with, and is subject to, applicable permitting regulations. And an appeal to the Board following the Region’s decision on remand is required to exhaust administrative remedies. 40 C.F.R. § 71.11(l)(5)(iii); *see also Peabody*, 14 E.A.D. at 722.

So ordered.¹

ENVIRONMENTAL APPEALS BOARD

Dated: Apr 03 2018

By: Mary Beth Ward
Mary Beth Ward
Environmental Appeals Judge

¹ The three-member panel deciding this matter consists of Environmental Appeals Judges Mary Kay Lynch, Kathie A. Stein, and Mary Beth Ward.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing *Order Granting Unopposed Motion for Voluntary Remand and Dismissing Petition for Review* in the matter of Veolia ES Technical Solutions, L.L.C., CAA Appeal No. 17-02, were sent to the following persons in the manner indicated:

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APR - 3 2018

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Annette Duncan
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