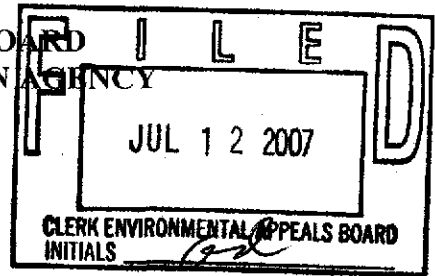


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)
Wausau Papers of New Hampshire,)
Inc.)
)
Permit No. NH0001562)
)

NPDES Appeal No. 05-15

ORDER STAYING PROCEEDINGS
AND
SCHEDULING STATUS CONFERENCE

By order issued March 8, 2007, the Environmental Appeals Board ("Board") granted a motion filed by the United States Environmental Protection Agency Region 1 ("Region") requesting a fifth stay of the proceedings¹ in this National Pollutant Discharge Elimination System ("NPDES") permit appeal.² See Order Granting Motion to Extend Stay of Proceedings (EAB Mar. 8, 2007). The order stayed the proceedings until July 9, 2007, to allow the parties additional time to try to resolve the issues on appeal by permit modification. *Id.* at 3. The order

¹ The Board issued its first order granting the parties' request to stay the proceedings in this case on November 28, 2005, and later, upon request and for good cause shown, the Board issued similar orders on April 20, 2006, July 12, 2006, and November 9, 2006.

² On September 14, 2005, the Region reissued an NPDES permit, No. NH0001562, to Wausau Papers of New Hampshire, Inc., ("Wausau") under the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251-1387, authorizing Wausau to discharge wastewater effluent and storm water from its manufacturing plant into the Connecticut River and sand filter backwash water into the Upper Ammonoosuc River in Groveton, New Hampshire. Wausau thereafter filed this petition pursuant to 40 C.F.R. § 124.19(a), challenging several conditions of the permit. See generally Petition for Review (filed Oct. 24, 2005).

also required the parties to submit a report regarding the status of the permit modification on or before July 9, 2007. *Id.*

On July 10, 2007, the Board received a Status Report and Motion to Extend Stay of Proceedings ("Status Report and Motion") from the Region. Although this motion was submitted by the Region, the Region states that it consulted with Petitioner (Wausau Papers of New Hampshire, Inc.) regarding the motion and that counsel for Petitioner reviewed and approved the status Report and motion. Status Report and Motion at 1, 3.

The Region reports that since the last status report, the Region and Petitioner have been working diligently and cooperatively to resolve the issues raised in the petition by permit modification. *Id.* at 2. In its previous motions requesting stay, the Region explained that two of the issues under discussion were more complex than the Region had anticipated, and therefore, the Region decided to proceed by dividing the outstanding issues into two separate permit modifications.

In its last motion, the Region explained that on November 13, 2006, the Region submitted for public comment the first permit modification, that it had received public comments on the modified draft permit and that the Region was in the process of responding to such comments and issuing a final permit relative to that modification. The Region further explained that the parties had engaged in extensive and productive discussions regarding the second permit modification but that, due to the complexity of the issues, additional time was still required to

develop the modification. In its current motion, the Region reports that on May 9, 2007, it issued a final permit modification addressing the first set of issues in the petition (i.e., the conditions regarding turbidity monitoring, flow, and total residue chlorine), and that Petitioner has confirmed that this permit modification finally resolves these issues in the petition. Status Report and Motion at 2. In addition, the Region reports that the parties have made substantial progress in the last four months with respect to the second permit modification, and that the Region is currently in the process of finalizing the draft permit modification and its supporting materials. The Region adds that it intends to submit a draft for public comment later in July 2007, but that it needs additional time to complete the regulatory process for this permit modification (i.e., to propose draft permit for public comment; receive, review and respond to public comments; consult with state and federal agencies regarding second draft permit; and issue a final permit modification).


Upon consideration of the foregoing and for good cause shown, the current motion is GRANTED. Accordingly, the above-captioned matter is hereby STAYED until October 12, 2007, pending the outcome of the permit modification process. On or before October 12, 2007, the parties shall submit a report regarding the status of the permit modification which shall include a discussion of whether it is appropriate to continue the stay, dismiss the petition, or establish a schedule for the Region to file a response to the petition.

In addition, the Board has provisionally scheduled a status conference for October 18, 2007,³ in the event that this case has not been fully settled by that time. The status conference will be conducted at 10:30 a.m. EST in the Administrative Courtroom, U.S. Environmental Protection Agency, EPA East Building, Room 1152, 1201 Constitution Avenue, N.W., Washington, D.C. Counsel for either of the parties who wish to participate in the status conference via the EPA video-conferencing equipment shall contact the Clerk of the Board, at (202) 233-0122, no later than October 11, 2007, to make arrangements for the use of such equipment. Further, both parties shall provide the Board with the names of counsel who will be participating in the status conference no later than October 11, 2007.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: _____



Scott C. Fulton

Environmental Appeals Judge

Dated: July 12, 2007

³ The parties shall inform the Board if settlement of this matter has been completed before this date.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Staying Proceedings and Scheduling Status Conference in the matter of Wausau Papers of New Hampshire, Inc., NPDES Appeal No. 05-15, were sent to the following persons in the manner indicated:

Pouch Mail
(and copy by facsimile):

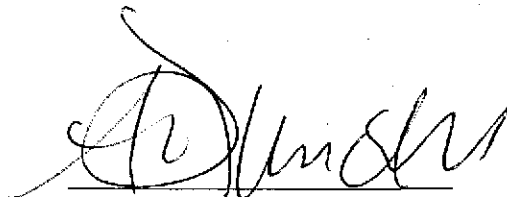
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(and copy by facsimile):

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Portland, ME 04101
(207) 791-1350 (fax)

Dated:

JUL 12 2007

A handwritten signature in black ink, appearing to read 'Annette Duncan', written over a horizontal line.

Annette Duncan
Secretary