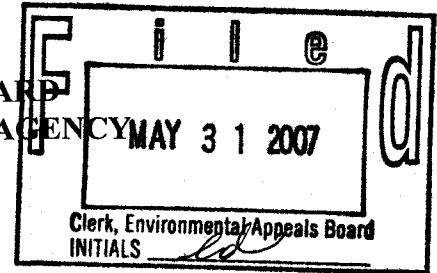


**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**



In re:

Easley Combined Utilities

NPDES Permit No. SC0039853

NPDES Appeal No. 06-10

**ORDER GRANTING MOTION
FOR CONTINUATION OF STAY**

On May 15, 2007, Region IV of the U.S. Environmental Protection Agency filed a status report and motion for a continuation of the stay of proceedings in the above-captioned matter. The Region reports that it is well along in the permit modification process and is presently awaiting Clean Water Act section 401 water quality certification from the State of South Carolina. The State requested an extension of the certification period until June 15, 2007, "due largely to * * * ongoing state litigation on the legality of flow limits." Status Report and Motion for Continuation of Stay at 3. The Region therefore seeks a continuation of the current stay of these NPDES permit proceedings until June 30, 2007, to give it time to process the outcome of the state water quality certification process. The Region notes that state certification is subject to a public notice and comment process and may be challenged once issued in final form, in which case the certification would not be effective pending the resolution of such an appeal. The Region therefore requests further time in this proceeding to allow it to assess the status of outstanding issues, including, primarily, the question whether it might wish to issue the final NPDES permit with a reopener clause to address the result of a final effective state certification, whenever that might occur. *Id.*

Easley Combined Utilities, petitioner and permittee, opposes the continued stay, claiming that the primary reason given for the delay – i.e., litigation on the legality of flow limits in South Carolina – has been pending for years and is unlikely to be resolved during the requested extension period. Easley argues that the Region's unilateral action in granting the State's request for more time to complete the CWA section 401 water quality certification process will now "compel" a new schedule, in contravention to the Environmental Appeals Board ("Board") order directing the Region to respond to Easley's petition for review by May 31, 2007. In light of this development, which was precipitated by the Region's failure to consult with the Board prior to granting the State additional time, Easley requests a case management hearing before an Environmental Appeals Judge "to prevent further delays and additional requests for extensions of time, and to establish a binding schedule for the resolution by the Board of the remaining permit issues." Petitioner's Response to EPA Third Status Report and Request for Case Management Hearing at 6.

For good cause shown, we hereby **GRANT** the Region's motion for a continuation of the current stay of proceedings. The Region is now required to file its response to Easley's pending petition for review on or before **June 30, 2007**. We **DENY** Easley's motion for a case management conference at this time, although we retain our discretionary authority to schedule such a conference at a later date.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: May 31, 2007

By: Kathie A. Stein
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Granting Motion for Continuation of Stay** in the matter of Easley Combined Utilities, NPDES Appeal No. 06-10, were sent to the following persons in the manner indicated:

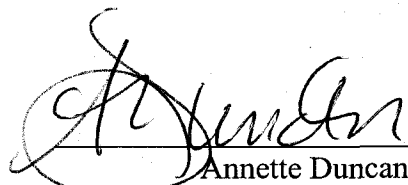
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Dated: JUN - 1 2007


Annette Duncan
Secretary