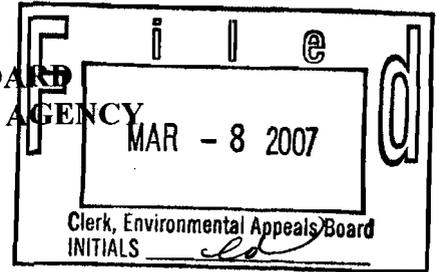


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)

Wausau Papers of New Hampshire,)
Inc.)

Permit No. NH0001562)

NPDES Appeal No. 05-15

ORDER GRANTING MOTION TO EXTEND
STAY OF PROCEEDINGS

By order issued November 9, 2006, the Environmental Appeals Board (“Board”) granted a motion filed by the United States Environmental Protection Agency Region 1 (“Region”) requesting a fourth 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 Nov. 9, 2006). The order stayed the proceedings until March 9, 2007, to allow the parties

¹ On November 28, 2005, the Board issued its first order granting a joint motion filed by the Region and Wausau Papers of New Hampshire, Inc. (“Wausau” or “Petitioner”) requesting a stay of the proceedings in the above-captioned matter. The November 28 order stayed the proceedings until April 14, 2006. *See* Order Granting Stay (EAB Nov. 28, 2005). On April 13, 2006, the parties filed a status report and requested an additional stay of the proceedings until July, 13, 2006, which the Board granted by order dated April 20, 2006. *See* Order Continuing Stay (EAB Apr. 20, 2006). On July 12, 2006, the Board granted a motion, this time filed by the Region 1, requesting a third stay of the proceedings until November 10, 2006. *See* Order Granting Motion to Extend Stay of Proceedings (EAB July 12, 2006).

² On September 14, 2005, the Region reissued an NPDES permit, No. NH0001562, to Wausau under the Clean Water Act (“CWA”), 33 U.S.C. §§ 1251-1387, which authorized Wausau to discharge wastewater and storm water from its manufacturing plant in Groveton, New Hampshire. Wausau thereafter filed this appeal pursuant to 40 C.F.R. § 124.19(a), challenging several conditions of the permit. *See generally* Petition for Review (filed Oct. 24, 2005).

additional time to try to resolve the issues on appeal by permit modification. *Id.* at 3. The Order also required the parties to submit a report regarding the status of the permit modification on or before March 9, 2007. *Id.*

On March 7, 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 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 last motion requesting stay, the Region explained that two of the four issues under discussion were more complex than the Region earlier understood, and that the Region decided to proceed by dividing the issues into two separate permit modifications. In its current motion, the Region explains that on November 13, 2006, the Region submitted for public comment the first permit modification, that the public comment period for this modification has already elapsed, and that the Region needs time to respond to comments received during this period and issue a final permit modification. The Region further explains that since January 2007 the Region and Petitioner have engaged in extensive and productive discussions regarding the second permit modification, that these issues are considerably more complex than the issues addressed in the first permit modification, and that the Region requires additional time to develop

the second permit modification (i.e., draft a second draft permit; 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 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 July 9, 2007, pending the outcome of the permit modification process. On or before July 9, 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.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: 
Scott C. Fulton
Environmental Appeals Judge

Dated: March 9, 2007

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Granting Motion to Extend Stay of Proceedings 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:

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Dated: 3/9/07


Annette Duncan
Secretary