

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

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ENVIR. APPEALS BOARD

In re: Easley Combined Utilities

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) NPDES Appeal No. 06-10
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NPDES Permit No. SC0039853

MOTION TO STAY THE PETITION

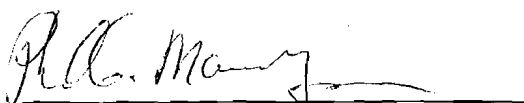
Counsel for the U.S. Environmental Protection Agency (EPA) Region 4 requests that the Environmental Appeals Board (EAB) stay all proceedings in the above-captioned matter. In support of this motion EPA offers that, consistent with Petitioners' request, it plans to propose a modification to the NPDES permit to remove the flow limits challenged in the July 28th, 2006, Petition for Review. If, after notice and comment, the permit is modified consistent with the proposed permit modification, this should resolve Petitioners' challenge to the challenged flow limits. Because EPA plans to propose modifications to at least one permit limit challenged by Petitioners, EPA believes it is in the interest of judicial economy for the Board to stay the proceedings to allow the Region to consider and process this modification and any other modifications that may be necessary before considering the remaining challenges to the permit. EPA plans to continue to discuss with Petitioners the three other issues raised in the Petition for Review and will either include any negotiated changes in the proposed permit or file a response to the Petition. EPA would also note that EPA counsel was recently called out of the office to address a family medical emergency which limited his ability to engage in negotiations.

EPA is preparing a Notice of Permit Modification that will be published reflecting the modification to the flow limits and any other modifications the parties agree to. The final outcome and timing of that process will depend on the Section 401 Certification from South Carolina, and whether that Certification is challenged in the state process. Accordingly, EPA requests a stay of this petition until January 19th, 2007, and EPA will report to the EAB on the status of modification on December 19, 2006. EPA has discussed this matter with counsel for the Petitioner and they do not join in this motion.

For the reasons set forth above, and in the interest of judicial economy, counsel for EPA respectfully requests that the Motion for a Stay of the Petition pending proposed permit modification and further discussions among the parties be granted by the Environmental Appeals Board.

Respectfully submitted this 9th day of November, 2006.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, Region 4**



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