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ENVIR. APPEALS BOARD

RICHARD H. SEDGLEY  
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April 2, 2007

By U.S. Mail

Eurika Durr, Clerk of the Board  
Environmental Appeals Board  
U.S. Environmental Protection Agency  
Colorado Building  
1341 G Street, N.W.  
Suite 600  
Washington, D.C. 20005

Re: NPDES Appeal No. 06-10  
Easley Combined Utilities, Petitioner  
Petitioner's Response to EPA Second Status Report

Dear Ms. Durr:

Enclosed for filing in your usual manner are the original and five copies of Petitioner's Response to EPA Second Status Report. We appreciate your assistance in this matter.

Sincerely,

Richard H. Sedgley

Cc: Philip G. Mancusi-Ungaro, Esq.,  
EPA Region IV  
Joel D. Ledbetter, P.E., General Manager  
Easley Combined Utilities  
F. Paul Calamita, Esq.

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**ENVIRONMENTAL APPEALS BOARD**

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

ENVIR. APPEALS BOARD

Easley Combined Utilities,  
Petitioner

In re: NPDES Permit No. SC0039853

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NPDES Appeal No. 06-10

**PETITIONER'S RESPONSE TO EPA SECOND STATUS REPORT**

Counsel for Respondent Environmental Protection Agency Region IV has today submitted its second Status Report in this NPDES permit appeal, pursuant to the Environmental Appeals Board's Order. As noted therein, EPA has provided public notice for a further reissuance of the challenged NPDES permit, which counsel characterizes as "modified."

The proposed permit makes no meaningful change to the Total Suspended Solids and Fecal Coliform limitations issues, other than the addition by EPA of materials to its Record in an attempt to support these incorrect permit limitations. This is in spite of counsel's representations in its unilateral November 13, 2006 Motion to Stay that it's Motion was in part for the purpose of negotiation of possible changes to these provisions.

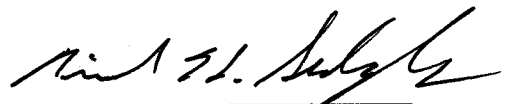
Respondent EPA Region IV has withdrawn in the permit proposal the challenged flow limitation and instream macroinvertebrate assessment conditions. However, we expect that South Carolina will file a 401 Certification purporting to require those conditions. Although Petitioner hopes this is incorrect, such a filing would likely prompt

EPA Region IV to reinsert those conditions, leaving this matter largely where it was when it was filed on August 23, 2006. An anticipation of these tactics, resulting in Respondent continuing to evade review of these important NPDES permit matters, was what prompted Petitioner's opposition to the Motion to Stay.

Petitioner continues to hope that EPA Region IV finalizes the NPDES permit deleting the two conditions it now proposes to delete, and changing the Total Suspended Solids and Fecal Coliform limitations in the manner discussed between Petitioner and Respondent and pursuant to comments that Petitioner will submit on the permit. However, if these conditions are not corrected, Respondent will finally be required pursuant to the Environmental Appeals Board's Order of January 12, 2007 to respond to the Petition by May 31, having avoided substantive review and response to the Petition until then.

Accordingly, although counsel has not mentioned the status of the specific issues in this matter, Petitioner continues to hope that EPA Region IV will provide substantive relief on the permit issues consistent with Petitioner's comments and work with EPA over the past several years, and that the Stay will contribute to judicial economy as advanced by counsel in its Motion to Stay.

Respectfully submitted,

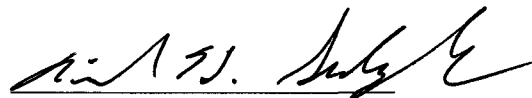
A handwritten signature in dark ink, appearing to read "Michael J. Suley", is written over a horizontal line.

Counsel for Petitioner

F. Paul Calamita  
Richard H. Sedgley  
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### **CERTIFICATE OF SERVICE**

I certify that on this 2d day of April, 2006 I delivered this Petitioner's Response to EPA Second Status Report by U.S. Mail with five copies to U.S. Environmental Protection Agency, Clerk of the Board, Environmental Appeals Board, Colorado Building, 1341 G Street, N.W., Suite 600, Washington, D.C. 20005. I further served this response by email and U.S. Mail to Philip G. Mancusi-Ungaro, Esq., U.S. Environmental Protection Agency, Region IV, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta Georgia 30303-8960 this 30th day of March, 2006.

A handwritten signature in black ink, appearing to read "Richard H. Sedgley", written over a horizontal line.

Counsel