

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

In re:)
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)

Wausau Papers of New Hampshire, Inc.)
Groveton, New Hampshire)
)
_____)

NPDES Appeal No. 05-15

STATUS REPORT AND MOTION TO EXTEND STAY OF PROCEEDINGS

The New England Region of the Environmental Protection Agency ("Region"), after consultation with permittee-petitioner Wausau Papers of New Hampshire, Inc. ("Petitioner"), hereby submits this status report and moves to extend the stay of proceedings by an additional 120 days.

BACKGROUND

On September 20, 2005, the Region reissued a National Pollutant Discharge Elimination System Permit, No. NH0001562 ("Permit"), to Petitioner. On October 21, 2005, Petitioner filed, pursuant to 40 C.F.R. § 124.19(a), a Petition for Review ("Petition") of the Permit. On October 27, 2005, the Board directed the Region to submit a response by December 14, 2005.

Over the course of late 2005 and 2006, the parties moved for, and the Board granted, a series of orders (dated November 28, 2005, April 20, 2006, July 12, 2006, and November 9, 2006) staying the proceedings while the parties engaged in settlement discussions. The last such order, dated November 9, 2006, stayed the proceedings in this matter until March 9, 2007, and

requiring the Region to submit, on or before that date, a status report advising the Board 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.

STATUS REPORT

Since the Region's last status report, the Region and Petitioner have been working diligently and cooperatively to resolve the issues raised by the Petition by permit modification. As noted in the Region's last status report, the Region has elected to proceed by dividing the issues under discussion into two separate permit modifications.

On November 13, 2006, the Region submitted for public comment a draft permit modification that would modify the Permit's conditions regarding turbidity monitoring, flow, and total residual chlorine. On December 12, 2006, Petitioner submitted timely written comments on this draft permit modification. No other party submitted comments during the public comment period.

Since January 2007, and continuing to the present, the Region and Petitioner have engaged in extensive and productive discussions regarding a second permit modification that would modify the Permit's conditions regarding temperature and cooling water intake structures. These issues are considerably more complex than the issues addressed in the first permit modification. The Region has shared a working draft of this second permit modification with Petitioner, and the Region and Petitioner have exchanged extensive comments. The Region has not yet submitted a draft of this second permit modification for public comment.

The Region has made substantial progress in the last four months, but requires additional time to finalize the first permit modification and to develop the second permit modification.

GROUND FOR CONTINUANCE OF STAY

In light of the above progress, and in the interests of judicial economy and to conserve resources, the Region requests that these proceedings be stayed for an additional 120 days, in order to allow the Region sufficient time to: (1) respond to Petitioner's written comments on the first permit modification; (2) issue the first permit modification; (3) work with Petitioner to refine the second draft permit modification; (4) propose the second draft permit modification for public comment; (9) receive, review, and respond to public comments; (10) consult with state and federal wildlife agencies regarding this second draft permit modification, and (11) issue a final permit modification.

Absent a continuance of the stay, the parties will be required to divert their time and effort from an ongoing permit modification process to litigation before the Board.

REQUESTED RELIEF

Accordingly, the Region requests that the Board extend the stay of proceedings until July 9, 2007. The Region represents that its undersigned counsel has discussed this motion with Petitioner's counsel, that Petitioner's counsel has reviewed and approved this status report and motion, and that Petitioner, through counsel, concurs in this status report and assents to the motion to extend the stay of proceedings.

Respectfully submitted,



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