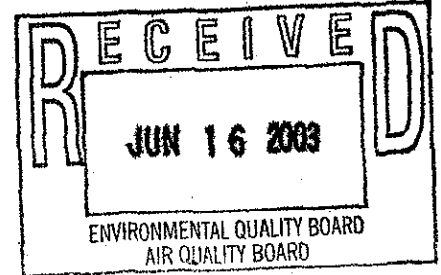


**WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA**

**INDEPENDENT OIL AND GAS
ASSOCIATION OF WEST VIRGINIA
and WEST VIRGINIA OIL AND
NATURAL GAS ASSOCIATION,**

Appellants,



v.

Appeal No. 02-29-EQB

**ALLYN G. TURNER, Director,
Division of Water and Waste
Management (formerly "Water
Resources"), West Virginia
Department of Environmental
Protection,**

Appellee.

ORDER

This day came the Appellants, the Independent Oil and Gas Association of West Virginia, Inc. ("IOGA-WV"), by counsel, M. Ann Bradley, and West Virginia Oil and Natural Gas Association ("WVONGA"), by counsel, David L. Yaussy, and the Appellee, Allyn G. Turner, Director, Division of Water and Waste Management, West Virginia Department of Environmental Protection, ("WVDEP"), by counsel, Joseph A. Lazell, and represented to the Board that they had reached agreement with respect to issues raised in Appellant's Notice of Appeal filed on November 27, 2002. The appeal arises out of WVDEP's issuance of WV/NPDES General Permit No. WV0115924 ("General Permit") on November 5, 2002, authorizing storm water discharges associated with construction sites.

On March 10, 2003, U.S. EPA announced at 68 Fed. Reg. 11325 that it was postponing

until March 10, 2005, the requirement to obtain a National Pollutant Discharge Elimination System ("NPDES") storm water permit for oil and gas construction activity that disturbs one to five acres of land. The parties have reviewed this announcement, conferred, and advised the Board that they have agreed to resolve the issues in the above-captioned appeal on the following terms, without any party making any admissions or waiving any rights other than those expressly set forth below:

1. The requirements of the General Permit as it applies to oil and gas exploration, production, processing, or treatment operations or transmission facilities ("Oil and Gas Operations"), are suspended pending a determination by the U. S. EPA ("EPA") of the applicability of NPDES storm water permit requirements to construction activity at Oil and Gas Operations.

2. Within 10 days of the issuance of this Order, WVDEP shall issue a letter to Appellants announcing the suspension of WV/NPDES permitting requirements as reflected in the General Permit for construction activity associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities pending the agency's evaluation of further action by EPA. A notice shall be placed in a prominent position on the Division of Water and Waste Management's storm water permitting internet webpages for viewing by potentially affected members of the regulated community.

3. After EPA's determination, the WVDEP shall modify the requirements of the General Permit on oil and gas construction activity that disturbs more than one acre of land in accordance with EPA's determination regarding the application of the NPDES storm water permit requirements to construction activity at Oil and Gas Operations, subject to public notice and

comment requirements. In the event the WVDEP determines to impose the requirements of the General Permit on all or any part of Oil and Gas Operations, the WVDEP shall provide at least 30 days advance written notice of its determination to Appellants. The WVDEP's determination will be considered a final and appealable permit action and Appellants may appeal such determination and any term or condition of the General Permit to this Board.

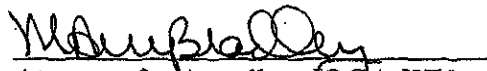
The Board, having considered this resolution and concluded that it was lawful and appropriate, does hereby Order that the agreement of the parties be adopted as a decision of the Board, and dismisses the appeal at Docket No. 02-29-EQB in its entirety.

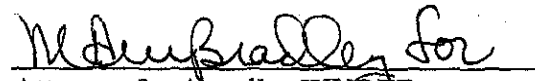
It is so **ORDERED** this 19th day of June, 2003.


Environmental Quality Board


Dr. Edward Snyder, Chair

Agreed and consented to:


Attorney for Appellant ~~FOGA~~-WV
M. Ann Bradley (WV Bar Id # 437)


Attorney for Appellee WVDEP
Joseph A. Lazell (WV Bar Id # 2165)


Attorney for Appellant WVONGA
David L. Yaussey (WV Bar Id # 4156)

CERTIFICATE OF SERVICE

I, Melissa Carte, Clerk for the Environmental Quality Board, do hereby certify that I, on this 23rd day of June 2003, served the attached **ORDER** to all parties in Appeal No.

02-29-EQB as follows:

by Certified United States Mail, postage prepaid:

Ann Bradley
Spilman Thomas & Battle
300 Kanawha Blvd., E.
Charleston, WV 25321

Certified Mail # 00004267

David Yaussy
Robinson & McElwee
500 Virginia St., E.
Charleston, WV 25301

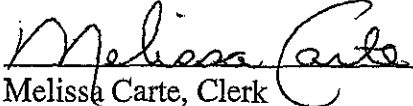
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Jay Lazell
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Melissa Carte, Clerk