



critical limit on the amount of perfluorinated compounds in stormwater that may be

Defense Council's (NRDC) intervention motion "without prejudice to renewal if the EPA ceases to defend its regulations." *Id.* at 2. NRDC has authorized the undersigned to represent that it does not oppose the requested relief because EPA will take final action by February 15, 2012.

administrative reconsideration petition regarding deficiencies in the data EPA used to support its decision to adopt a 280-NTU effluent limit. NAHB also alleged that EPA had failed to consider certain site-

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<sup>2</sup> A nephelometric turbidity unit is a unit that measures clarity of water.

potential deficiencies with the dataset that EPA used to support its decision to adopt the 280-NTU limit. In June 2010, less than a month before it filed its opening brief in this Court, the National Association of Home Builders also filed a petition for administrative reconsideration with EPA incorporating by reference SBA's argument regarding the deficiencies in the data underlying the 280-NTU limit.

Based on EPA's examination of the dataset underlying the 280-NTU limit it adopted, the Agency has concluded that it improperly interpreted the data and, as a result, the calculations in the existing administrative record are no longer adequate to support the 280-NTU

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<sup>3</sup> The SBA is not a party to this case.

EPA has determined that it will begin proceedings on the two pending administrative petitions so that the Agency may reconsider the

administrative determination, EPA requests that the Court hold the

case in abeyance for 18 months, until February 15, 2012, to allow EPA

sufficient time to complete the reconsideration process. *See, e.g., Anchor*

Status of the Agency's administrative reconsideration process.

utility projects. ENA also agrees to solicit site-specific information



Remand. EPA acknowledges that it could have provided a more direct

response to OWAQ's comments during the regulatory process, but believes that it would be a disservice to the Court, the parties to this lawsuit and to the public for that explanation to be excluded from the

record on review. Accordingly, EPA seeks a remand of the record

rule back to the Agency for further explanation after full merits briefing and oral argument, against the value of providing EPA with an opportunity to fully articulate its position so that the Court can make an informed decision on the merits in the first instance.

Finally, as noted above, all parties agree that the requested relief is appropriate.

[REDACTED]

the parties to file a report advising the Court of their views on how the litigation should proceed, including proposed briefing deadlines, within 30 days after the abeyance period expires.

~~SMITH-BROWN~~

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GINO J. AGNELLO  
CLERK

