Commissioner, Indiana Department of Environmental Management, Complainant,

v.

Bunker Farms, LLC, IDEM Case No. 2009-18320-W, Respondent 2010 OEA 133, (09-W-E-4327)

OFFICIAL SHORT CITATION NAME: When referring to 2011 OEA 133 cite this case as *Bunker Farms, LLC*, 2011 OEA 133.

TOPICS:

hearing enforcement dismissal effective date Notice of Violation (NOV) Commissioners Order (CO)

PRESIDING JUDGE:

Catherine Gibbs

PARTY REPRESENTATIVES:

IDEM: Sierra Alberts, Esq. Respondent: David Brown, Esq.

ORDER ISSUED:

October 6, 2011

INDEX CATEGORY:

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FURTHER CASE ACTIVITY:

[none]

Commissioner, Indiana Department of Environmental Management, Complainant,

v.

Bunker Farms, LLC, IDEM Case No. 2009-18320-W, Respondent 2010 OEA 133, (09-W-E-4327)

STATE OF INDIANA)		ORE THE INDIANA OFFICE OF IRONMENTAL ADJUDICATION
COUNTY OF MARION)	Liv	
IN THE MATTER OF:)	
)	
COMMISSIONER, INDIANA DEPARTMENT)	
OF ENVIRONMENTAL MANAGE	MENT)	
Complainant)	
)	
v.)	CAUSE NO. 09-W-E-4327
)	
BUNKER FARMS LLC)	
IDEM Case No. 2009-18320-W)	
Respondent)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

This matter having come before the Court on the Defendant's Motion to Withdraw Petition, which pleading is a part of the Court's record.

FINDINGS OF FACT

- 1. On or about November 19, 2009, the IDEM issued its Notice and Order of the Commissioner of the Indiana Department of Environmental Management (hereinafter referred to as "the CO") to Bunker Farms LLC (the Defendant). The Defendant received the CO on November 24, 2009.
- 2. On December 11, 2009, the Defendant filed its Request for Review with the Office of Environmental Adjudication. This matter was assigned cause number 09-W-E-4327.
- 3. This matter was set for final hearing on October 6, 2011.
- 4. On October 5, 2011 at 3:03 p.m. ET via electronic mail, the Defendant, Bunker Farms LLC, by its counsel, filed Defendant's Motion to Dismiss Request for Review. Later that same day at 4:18 p.m. ET, counsel filed, via electronic mail, Defendant's Motion to Withdraw Petition and indicated that this was the motion upon which the Defendant requested the Court take action.

CONCLUSIONS OF LAW

Commissioner, Indiana Department of Environmental Management, Complainant,

v. Bunker Farms, LLC,

IDEM Case No. 2009-18320-W, Respondent 2010 OEA 133, (09-W-E-4327)

- 1. The Office of Environmental Adjudication ("OEA") has jurisdiction over the decisions of the Commissioner of the Indiana Department of Environmental Management ("IDEM") and the parties to this controversy pursuant to Ind. Code § 4-21.5-7, *et seq.* and I.C. § 13-30-3-5.
- 2. This is a Final Order issued pursuant to I.C. § 4-21.4-3-27. Findings of Fact that may be construed as Conclusions of Law and Conclusions of Law that may be construed as Findings of Fact are so deemed.
- 3. Pursuant to 315 IAC 1-3-8(c), the Court concludes that the Defendant's Motion to Withdraw Petition is in proper form and should be granted.
- 4. Further, the Court concludes that the Notice and Order of the Commissioner of the Indiana Department of Environmental Management issued on November 20, 2009 to Bunker Farms LLC shall take effect immediately upon the issuance of these Findings of Fact, Conclusions of Law and Final Order.

FINAL ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Request for Review is **DISMISSED**. All further proceedings are **VACATED**.

You are hereby further notified that pursuant to provisions of I.C. § 4-21.5-7.5, the Office of Environmental Adjudication serves as the Ultimate Authority in the administrative review of decisions of the Commissioner of the Indiana Department of Environmental Management. This is a Final Order subject to Judicial Review consistent with applicable provisions of I.C. § 4-21.5. Pursuant to I.C. § 4-21.5-5-5, a Petition for Judicial Review of this Final Order is timely only if it is filed with a civil court of competent jurisdiction within thirty (30) days after the date this notice is served.

IT IS SO ORDERED this 6th day of October, 2011 in Indianapolis, IN.

Hon. Catherine Gibbs Environmental Law Judge