- The Wetland Alternative was developed to minimize disturbance to wetlands.
- The Arkansas River Alternative was developed to provide the highest minimum flow in the Arkansas River through Pueblo and to minimize water quality effects on the lower Arkansas River.
- The Fountain Creek Alternative was developed to minimize geomorphic and water quality effects on Fountain Creek by minimizing the use of Fountain Creek and its tributaries for receiving and conveying reusable return flows to the Arkansas River.
- The Downstream Intake Alternative would use an untreated water intake from the Arkansas River downstream of Fountain Creek and was developed to address public interest in an alternative location for diversion of water.
- The Highway 115 Alternative would convey untreated water through a pipeline that generally follows Colorado 115 between the Arkansas River and Colorado Springs and was developed to address public interest in an alternative pipeline location.

Public Disclosure Statement: Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 21, 2008.

Gary W. Campbell,

Deputy Regional Director, Great Plains Region.

[FR Doc. E8–3679 Filed 2–28–08; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Equus Beds Division of the Wichita Project; Wichita, KS

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement (EIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Reclamation (Reclamation) proposes to prepare an EIS on the Equus Beds Aquifer Recharge and Recovery Component of the 'Integrated Local Water Supply Plan, Wichita, Kansas' (referred to as the 'Equus Beds Division'). The purpose of the Equus Beds Division is to provide a reliable supply of potable water to meet the maximum daily demand within the projected metropolitan area of Wichita, Kansas, through 2050 while protecting the Equus Beds aquifer's water quality. The proposed action would include the diversion of 100 million gallons per day (MGD) of above base flow water from the Little Arkansas River into the Equus Beds aquifer. The proposed action would involve adding a new point of diversion with a proposed new water right to be held by the City of Wichita.

DATES: A public scoping notice will be sent out to all interested parties to assist in identifying the significant environmental issues related to the proposed action. Written comments will be accepted through March 31, 2008.

ADDRESSES: Comments and requests to be added to the mailing list may be submitted to Bureau of Reclamation, Oklahoma-Texas Area Office, *Attention:* Charles Webster, Environmental Protection Specialist, 5924 NW 2nd Street, Suite 200, Oklahoma City, Oklahoma 73127–6514.

FOR FURTHER INFORMATION CONTACT: Charles Webster, Environmental Protection Specialist, Telephone: (405) 470–4831. TTY users may dial 711 to obtain a toll free TTY relay.

SUPPLEMENTARY INFORMATION: Reclamation has been authorized to assist in the funding of the Equus Beds Division under the authority of Public Law 109–299 (October 5, 2006). Public Law 109–299 states: ''The Secretary of the Interior may assist in the funding and implementation of the Equus Beds Aquifer Recharge and Recovery Component which is a part of the 'Integrated Local Water Supply Plan, Wichita, Kansas' (referred to in this section as the 'Equus Beds Division') * * * Before obligating funds for design or construction under this section, the Secretary of the Interior shall work cooperatively with the City of Wichita, Kansas, to use, to the extent possible, plans, designs, and engineering and environmental analyses that have already been prepared by the City for the Equus Beds Division. The Secretary of the Interior shall assure that such information is used consistent with applicable Federal laws and regulations.''

The City of Wichita has historically relied on the Equus Beds aquifer as a major source of water. In addition to the City, other agricultural and industrial users also depend on the aquifer. Over the years, this use has exceeded recharge and has resulted in a severe drop in the water table which has led to saltwater intrusion into the Equus Beds aquifer. The City of Wichita began using more surface water to meet water demands in an effort to slow the saltwater intrusion. While this change has slowed the saltwater intrusion into the Equus Beds aquifer, it has not completely stopped it and the water quality of the aquifer continues to be degraded. In an effort to recharge the aquifer to prevent further water quality degradation and provide a large volume of stored groundwater for future use during drought, the City of Wichita is developing the Equus Beds Aquifer Recharge and Recovery Component of the Integrated Local Water Supply Plan.

If you wish to comment, you may mail us your comments as indicated under the **ADDRESSES** section. Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 15, 2008.

Donald E. Moomaw,

Assistant Regional Director, Great Plains Region.

[FR Doc. E8–3530 Filed 2–28–08; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Pamela Monterosso, D.M.D.; Denial of Application

On February 6, 2006, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Pamela Monterosso, D.M.D., (Respondent) of New York, N.Y. The Show Cause Order proposed the denial of Respondent's pending application for a DEA Certificate of Registration as a practitioner on the ground that her ''registration would be inconsistent with the public interest.'' Show Cause Order at 1 (citing 21 U.S.C. 823(f)).

The Show Cause Order specifically alleged that Respondent had previously held a DEA registration at premises located in Washington, DC, which she surrendered for cause in November 1997. *Id.* According to the allegations, in September 1997, Respondent was

arrested for obtaining oxycodone, a schedule II controlled substance, by use of a fraudulent prescription, and admitted to investigators that she was abusing pharmaceutical controlled substances. *Id.* The Show Cause Order alleged that following her arrest, DEA investigators audited Respondent's handling of controlled substances and found that she could not ''produce proper records to account for the dispensing of these substances.'' *Id.* at 2. The Show Cause Order further alleged that on October 22, 1997, the United States Attorney for the District of Columbia filed an information which charged Respondent with obtaining a controlled substance by fraud, a violation of 21 U.S.C. 843(a)(3), and that Respondent subsequently pled guilty to the charge and was sentenced to two years probation. *Id.*

The Show Cause Order next alleged that in July 1998, Respondent entered into a Consent Order with the Maryland Board of Dental Examiners under which she was placed on probation for three years. *Id.* The Show Cause Order further alleged that in June 1999, the Maryland Board suspended Respondent's dental license for a period of twelve months. *Id.*

The Show Cause Order alleged that between September 1998 and March 1999, Respondent ''fraudulently obtained narcotics from Maryland pharmacies'' on six occasions. *Id.* The Show Cause Order alleged that Respondent was subsequently arrested for obtaining hydrocodone by fraud, and that in April 2000, Respondent was convicted following her guilty plea on one count of violating Maryland narcotics laws and was sentenced to twelve months probation. *Id.*

The Show Cause Order also alleged that in June 2004, Respondent failed to disclose her ''post-1997 drug abuse, arrest, and conviction'' to the New York State Board of Dentistry. *Id.* The Show Cause Order further alleged that Respondent committed a material falsification because she ''failed to disclose [her] 2000 criminal conviction'' on the DEA application that is at issue in this proceeding. *Id.*

Upon service of the Show Cause Order, Respondent, through her counsel, requested a hearing and submitted a letter responding to the allegations. The matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner who ordered the parties to file pre-hearing statements. While the Government timely filed its statement, Respondent did not meet its May 30, 2006 filing deadline. Accordingly, on July 13, 2006, the Government moved to terminate the proceeding and requested that the ALJ find that Respondent had waived her right to a hearing. Gov. Mot. for Summ. Disp. at 1–2.

Upon receipt of the Government's motion, the ALJ issued a memorandum offering Respondent the opportunity to respond by July 31, 2006. Order Terminating Proceeding at 1. Respondent failed to do so. On August 9, 2006, the ALJ found that Respondent had waived her right to a hearing, granted the Government's motion, and ordered that the proceeding be terminated. *Id.*

On June 6, 2007, the case file was forwarded to me for final agency action. Based on: (1) Respondent's failure to comply with the ALJ's Order to submit her pre-hearing statement, and (2) her failure to respond to the Government's motion for summary disposition, I adopt the ALJ's finding that Respondent has waived her right to a hearing. *See* 21 CFR 1301.43(d). I therefore issue this Decision and Final Order without a hearing based on relevant material in the investigative file and make the following findings.

Findings

On February 6, 2005, Respondent submitted an application for a DEA Certificate of Registration as a practitioner. On the application, Respondent was required to answer several questions including whether she had ''ever been convicted of a crime in connection with controlled substances under state or federal law?,'' and whether she had ''ever surrendered or had a federal controlled substance registration revoked, suspended, restricted or denied?'' Respondent answered ''yes'' to both of these questions.[1] Respondent offered the following explanation of her ''yes'' answers:

> [O]n December 14, 1997 I [pled] guilty to one count of Rx fraud in Washington D.C. under His Honor Judge Stanley Sporkin. I was suffering from post partum depression after the birth of my first & second child. I was told not to prescribe narcotics until my treatment was completed, and my diagnosis assured. * * * Full prescribing rights were given back to me. No state license was ever revoked [or] suspended. No problems have occurred since, and to the best of my knowledge the case was expunged exactly 7 years later in 2004.

Based on Respondent's affirmative answers to the two questions, her application was assigned to a Diversion Investigator (DI) for further investigation. During the course of her investigation, the DI determined that in December 1997, Respondent had pled guilty to one count of obtaining oxycodone by fraud, a violation of 21 U.S.C. 843(a)(3), in the U.S. District Court for the District of Columbia, and that she had also surrendered her DEA registration. Moreover, as a result of her conviction, in July 1998, the Maryland State Board of Dental Examiners entered into a consent order with Respondent which placed her on probation for a period of three years during which she was prohibited from prescribing controlled substances.

The DI also determined that a DEA investigation had found that on various dates between January 4, 1995, and August 28, 1997, Respondent had failed to document on order forms, the date and quantity of schedule II controlled substances (oxycodone) she had received. The same investigation also audited Respondent's handling of controlled substances and found that she was short 427 oxycodone tablets. As a result of this investigation, Respondent entered into a civil settlement with the Department of Justice and agreed to pay a civil penalty of $15,000.

The DI further determined that in early 1999, Respondent was arrested by officers of the Montgomery County, Maryland police department, and charged with six additional offenses under Maryland law related to controlled substances including obtaining hydrocodone by fraud and the unlawful possession of hydrocodone. While five of the six counts were dismissed, on April 6, 2000, Respondent pled guilty to the unlawful possession of a controlled substance for which she was fined and placed on probation. Respondent satisfactorily completed her probation and was granted probation before judgment.

In her request for a hearing, Respondent acknowledged that she ''did in fact obtain the schedule III controlled substance hydrocodone from a pharmacy in Montgomery County.'' Resp. Req. for Hearing at 1. Respondent asserts, however, that she ''return[ed] the pills to the pharmacist just 10 minutes later,'' but that the pharmacist nonetheless filed a police report which led to her arrest ''364 days later.'' *Id.*

Respondent contends that ''in the spring of 2000, in the Montgomery County Court, the case was ruled *nulle prosequi* * * * and was dropped.'' *Id.* Respondent further asserts that ''[w]e were advised by our legal counsel that a *nol-pros* decision meant that [the] arrest was thrown out and future disclosure of the event was neither

[1] On the application, Respondent was also asked whether she had ''ever surrendered or had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation?'' Respondent answered ''no'' to this question.

appropriate nor necessary,'' and that she ''was told that this decision meant, in laymen's terms, 'that the arrest never happened.' '' *Id.*[2] Respondent further stated that she would submit the transcript from the proceeding to the Agency, *Id.*, but did not do so.

Discussion

Section 303(f) of the Controlled Substances Act provides that an application for a practitioner's registration may be denied upon a determination ''that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. 823(f). In making the public interest determination, the CSA requires the consideration of the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.
(2) The applicant's experience in dispensing * * * controlled substances.
(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.
(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.
(5) Such other conduct which may threaten the public health and safety.

Id.

- ''These factors are considered in the disjunctive.'' *Robert A. Leslie, M.D.*, 68 FR 15227, 15230 (2003). I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether * * * an application for registration [should be] denied.'' *Id.* Moreover, I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA*, 419 F.3d 477, 482 (6th Cir. 2005); *see also Morall* v. *DEA*, 412 F.3d 165, 173–74 (D.C. Cir. 2005).

Furthermore, under Section 304(a)(1), a registration may be revoked or suspended ''upon a finding that the registrant * * * has materially falsified any application filed pursuant to or required by this subchapter.'' 21 U.S.C. 824(a)(1). Under agency precedent, the various grounds for revocation or suspension of an existing registration that Congress enumerated in section 304(a), 21 U.S.C. 824(a), are also properly considered in deciding whether to grant or deny an application under section 303. *See Anthony D. Funches*, 64 FR 14267, 14268 (1999); *Alan R. Schankman*, 63 FR 45260 (1998); *Kuen H. Chen*, 58 FR 65401, 65402 (1993). Thus, the allegation that Respondent materially falsified her application is properly considered in this proceeding, *see Samuel S. Jackson*, 72 FR 23848, 23852 (2007), and is, if proved, an adequate ground for denying her application.

On the Show Cause Order, the Government made two allegations that Respondent engaged in material falsification. First, it alleged that in June 2004, Respondent failed to disclose her ''post-1997 drug, abuse, arrest, and conviction'' when she ''appeared before the New York State Board of Dentistry * * * as an applicant for a license to practice dentistry.'' Show Cause Order at 2.

Respondent remains, however, licensed in good standing in the State of New York. Under these circumstances, the allegation that she failed to disclose to the New York Board of Dentistry the second arrest and conviction (and thus procured her dental license by fraudulent means) is a matter which should be resolved in the first instance by the State and not DEA. The allegation is therefore dismissed.

Respondent's statement on her DEA application is, however, properly before the Agency. Even accepting Respondent's statement that she was advised by her legal counsel that she was not required to disclose her arrest and plea, DEA has long taken the view that even when a court withholds adjudication and ultimately dismisses the charge after the completion of probation, the proceeding is still a conviction within the meaning of the Controlled Substances Act. *See Eric A. Baum, M.D.*, 53 FR 47272, 47274 (1988); *see also David A. Hoxie*, 69 FR 51477, 51478 (1994).

Moreover, the failure to disclose such a conviction constitutes a material falsification because it is ''capable of influencing'' the decision as to whether to grant an application. *See Kungys* v. *United States*, 485 U.S. 759, 770 (1988) (int. quotation and other citation omitted). As DEA has frequently noted, an applicant's answers to the various liability questions are material because the Agency ''relies upon such answers to determine whether an investigation is needed prior to granting the application.'' *Martha Hernandez, M.D.*, 62 FR 61145, 61146 (1997).

Respondent's failure to disclose the 2000 Maryland proceeding is material because the public interest inquiry under section 303(f) requires, *inter alia*, that the Agency examine her ''experience in dispensing * * * controlled substances,'' her ''conviction record * * * relating to the * * * dispensing of controlled substances,'' and her ''[c]ompliance with applicable State, Federal, or local laws relating to controlled substances.'' 21 U.S.C. 823(f). Respondent was therefore required to disclose the circumstances surrounding her subsequent arrest even if her conviction was expunged. Her failure to do so constitutes material falsification.

Furthermore, even crediting Respondent's statement that she was advised by counsel that she need not disclose the Maryland proceeding in the future, in her explanation she then proceeded to make an affirmative and material misrepresentation when she stated that ''[n]o problems have occurred since'' the 1997 federal proceeding. The statement was clearly false and Respondent had reason to know this to be so. I therefore conclude that Respondent knowingly made a material false statement in an attempt to obtain a favorable decision from the Agency on Respondent's application and that granting Respondent a new registration ''would be inconsistent with the public interest.'' 21 U.S.C. 823(f); *see also e.g., Dan E. Hale*, 69 FR 69402 (2004).

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f), as well as 28 CFR 0.100(b) & 0.104, I order that the application Pamela Monterosso, D.M.D., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This order is effective March 31, 2008.

Dated: February 15, 2008.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E8–3873 Filed 2–28–08; 8:45 am]

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[2] Respondent also contended that while in June 1999, the Maryland Board ''did indeed suspend her dental license for 12 months, [the suspension] was also stayed immediately.'' Respondent's Req. for Hearing at 1. The record contains, however, a copy of a June 2, 1999 consent order under which Respondent voluntarily agreed not to practice dentistry for a period of twelve months. This order contains no indication that it was stayed. The Show Cause Order did not, however, allege either that Respondent's ''no'' answer to the liability question regarding whether her state license had been the subject of discipline or her statement that ''[n]o state license was ever revoked and/or suspended'' was materially false. I therefore do not consider whether either of these statements is grounds for the denial of her application.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under 21 U.S.C. 952(a)(2)(B) authorizing the importation