

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

In the Matter of:

City of Manchester

NPDES Permit No. NH0100447

NPDES Appeal No. 25-04

REGION 1 MOTION FOR EXTENSION OF TIME

Pursuant to 40 C.F.R. § 124.19(g), Region 1 of the United States Environmental Protection Agency (“Region 1”) hereby moves the Environmental Appeals Board (“Board”) for a twenty-eight (28) day extension of time, until Friday, January 30, 2026, to file Region 1’s Response to the Petition for Review (“Response”) in the above-captioned matter.

The grounds for this motion are as follows:

1. On November 3, 2025, EPA issued a National Pollutant Discharge Elimination System (“NPDES”) Permit to the City (“the Permit”), authorizing discharges from the City of Manchester’s (“the City”) wastewater treatment facility to the Merrimack River and other receiving waters.
2. On December 3, 2025, Conservation Law Foundation (“Petitioner”) timely filed its Petition for Review (“Petition”) with the Board. The Petitioner requests review of three issues related to the Permit decision, which Petitioner characterizes as:
 - a. The Region’s decision to not evaluate whether the PFAS discharges have a “reasonable potential” to cause or contribute to a violation of New Hampshire’s narrative water quality standards.

- b. The Region's change to the benthic survey requirement from the draft to final permit with no additional notice and opportunity for public comment.
 - c. The Region's decision to not perform an environmental justice analysis pursuant to agency guidance.
- 3. The Region's Response, along with a certified index and relevant portions of the administrative record, is currently due on January 2, 2026.
- 4. The permit record is largely technical in nature and development of the Response will require close collaboration between the Region's technical and legal staff.
- 5. However, numerous key technical and legal staff in Region 1 will be out of the office from December 22, 2025 through January 2, 2026 due to previously scheduled leave. Moreover, EPA offices will be closed on December 25, 2025, and on January 1, 2026. These staff absences and offices closures will significantly limit the opportunity for necessary consultation within the Region.
- 6. In accordance with the "Procedures for Coordination OE-OGC-Regions EAB," the Region will separately need to coordinate closely with both EPA's Office of General Counsel and Office of Water, before finalizing and filing any Response.¹ This consultation period normally commences after production of a draft Response by the Region. Key Headquarters staff will also be out of the office in late December and early January, the Region has been informed, and this will make adherence to the Board's guidance on coordination with Headquarters more challenging.
- 7. In addition, the Region also received a petition for review from the City of Manchester ("the City's Petition") in the above-captioned matter on December 3,

¹ See *Procedures for Coordination OE-OGC-Regions Environmental Appeals Board* (Jan. 25, 1993) (stating the importance of initiating consultation as early as possible with Headquarters offices and articulating EPA's long-standing policy that consultation typically occurs during the 30-day period following a petitioner's substantive filing).

2025. The City's Petition raises numerous legal and technical issues that are distinct from those raised by Conservation Law Foundation. The same technical team (and a portion of the legal team) working on the subject Petition is also working to resolve the disputes raised in the City's Petition.

8. To ensure that the Region's development of a Response unfolds in an orderly fashion and that EPA's positions have been fully coordinated within the Region and Headquarters, the Region requests a 28-day extension of time, to Friday, January 30, 2026, to file the Region's Response.

Pursuant to 40 C.F.R. § 124.19(f)(2), EPA contacted Petitioner's counsel to ascertain its position on this motion. Petitioner's counsel has assented to this Motion.

For the reasons set forth above, and in the interest of promoting efficiency, EPA respectfully requests that the Board grant this Motion for Extension of Time.

Dated: December 12, 2025

Respectfully submitted,

U.S. EPA – Region 1

Kristen Scherb, Esq.
Kassandra Kometani, Esq.
U.S. Environmental Protection Agency
Office of Regional Counsel, Region 1
5 Post Office Square
Boston, MA 02109
Tel: (617) 918 – 1767
(617) 918 – 1852
Email: Scherb.kristen@epa.gov
Kometani.kassandra@epa.gov

Of Counsel:

Pooja Parikh, Esq.
Water Law Office, Office of General Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Extension of Time, in connection with *In re City of Manchester*, NPDES Appeal No. 25-04, was sent to the following persons in the manner indicated:

By Electronic Filing:

Tommie Madison
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
WJC East Building, Room 3332
Washington, DC 20004

By Electronic Mail:

Thomas F. Irwin
Jillian Aicher
Conservation Law Foundation, Inc.
27 North Main Street
Concord, NH 03301-4930
62 Summer Street
Boston, MA 02110
tirwin@clf.org
jaicher@clf.org

Gregory H. Smith
Adam M. Dumville
McLane Middleton, Professional Association
11 South Main Street, Suite 500
Concord, New Hampshire 03301
Tel: (603) 226-0400
(603) 625-6464
greg.smith@mclane.com
adam.dumville@mclane.com

Dated: December 12, 2025

Kristen Scherb, Esq.
U.S. Environmental Protection Agency
Office of Regional Counsel, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109
(617) 918-1767
Scherb.kristen@epa.gov