



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA ELECTRONIC FILING

December 7, 2016

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

**RE: Town of Bridgewater Wastewater Treatment Plant
NPDES Permit Appeal No. 16-01; NPDES Permit No. MA0100641**

Dear Ms. Durr:

Please find EPA Region 1's Response to the Town of Bridgewater's Motion for Stay and for an Accelerated Ruling Thereon, and accompanying Certificate of Service, in connection with the appeal referenced above.

Sincerely,

Samir Bukhari
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Enclosures

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

In the Matter of:)
)
Bridgewater Wastewater Treatment)
Plant)
)
NPDES Permit No. MA0100641)
_____)

NPDES Appeal No. 16-01

**EPA REGION 1’S RESPONSE TO THE TOWN OF BRIDGEWATER’S MOTION FOR
STAY AND FOR AN ACCELERATED RULING THEREON**

The appearance of new counsel in this matter should neither obscure, nor obviate, the threshold issue pending before the Board—that is, whether the underlying Petition is valid, or whether it suffers from fatal procedural infirmities that would necessitate its dismissal as untimely. After three filings by two law firms over the course of one month, the Town has still not answered the question of why it failed to file the Petition with the Board by November 7, 2016, as it was required to under federal regulations. As evidenced by the Town’s Motion, this is not a case where more facts seem likely to materialize that would further inform the Board’s decision. The Town has had multiple opportunities to refute the Region’s factual description of events leading to the filing of the Petition—and the legal basis for warranting its dismissal—but has failed to do so. The Town’s latest filing only underscores that the Region’s dismissal motion is ripe for decision.

In view of this fact, the reasons provided by the Town for indefinitely forestalling resolution of the Region’s Motion to Dismiss do not amount to good cause. To the contrary, it would seem to the Region that expeditious disposition of the Region’s Motion would provide needed clarification to the parties concerning their respective positions and allow them to make

informed decisions over how to structure any discussions that might in the future occur. In addition to providing visibility to the parties, a ruling on the Region's dismissal motion may well allow for a more efficient and orderly deployment of resources that would otherwise obtain in the presence of a stay.

For one, if the Petition is dismissed then there will be no overriding need for the Town's new counsel to familiarize themselves, on an accelerated basis, with the permit and administrative record, in order to represent the Town before the Board. A Board proceeding, even if stayed, will still necessitate some attention and resources from the parties, which will not have to be expended if the Board grants the Region's dismissal motion.

For another, a ruling to grant the Region's dismissal motion will also eliminate, as moot, the expense and time for all parties (and the Board) associated with oral argument over the Motion, which the Town has requested.

For the foregoing reasons, EPA Region 1 respectfully opposes the Town's Motion for a Stay. The Region requests that the Board rule on the Region's pending—and dispositive—motion in its ordinary course. The Region further requests that the Board deny the Motion, on the grounds set forth above, and if should it grant the Region's dismissal motion, that it also deny the Motion as moot.

Respectfully submitted,

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Dated: December 7, 2016

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response, in the matter of Town of Bridgewater Wastewater Treatment Plant, NPDES Appeal No. 16-01, was served on the following persons in the manner indicated:

By Electronic Mail and U.S. Mail:

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Dated: December 7, 2016

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