



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

Boston, MA 02109-3912

VIA ELECTRONIC FILING

February 17, 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: City of Nashua Wastewater Treatment Facility
NPDES Permit Appeal No. 15-06; NPDES Permit No. MA0100170**

Dear Ms. Durr:

Please find a Joint Status Report, Petitioner's Motion for Leave to Withdraw the Petition and Joint Motion to Dismiss the Proceedings in connection with NPDES Appeal No. 15-06.

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:)	
)	
)	
City of Nashua)	
Wastewater Treatment Facility)	NPDES Appeal No. 15-06
)	
NPDES Permit No. NH0100170)	
)	

**JOINT STATUS REPORT, PETITIONER’S MOTION FOR LEAVE TO
WITHDRAW THE PETITION AND JOINT MOTION TO DISMISS THE
PROCEEDINGS**

I. BACKGROUND

On April 13, 2015, the City of Nashua, New Hampshire filed a Petition for Review (“Petition”) with the Environmental Appeals Board (“Board”) requesting review of certain conditions of a National Pollutant Discharge Elimination System (“NPDES”) permit issued by Region 1 of the United States Environmental Protection Agency (“Region”) authorizing discharges of wastewater effluent from the City’s Wastewater Treatment Facility to the Merrimack River, as well as from nine Combined Sewer Overflows to the Merrimack and Nashua Rivers.

Following settlement discussions, the parties reported that they had negotiated an agreement to resolve the Petition in its entirety, and moved the Board to stay the proceedings to allow the settlement to be implemented via a permit modification. *See Status Report and Fourth Joint Motion to Stay the Proceedings* (October 9, 2015). The parties explained that, “Upon the parties concurring that the draft permit modification accurately reflects the settlement terms, the parties will file a joint motion to dismiss the

Petition in its entirety.” *Id.* at 3. The Board granted the motion, staying the proceedings until February 16, 2016, and requiring periodic status reports on the Region’s progress toward drafting the permit modification documents and the parties’ efforts to achieve agreement over the form of such documents to ensure that they accurately reflected the terms of the settlement agreement. *Fourth Order Extending Staying of Proceedings* at 2 (October 16, 2015).

II. STATUS REPORT AND MOTIONS

The parties have concurred over the form of the draft permit modification documents, having concluded that they accurately reflect the terms of the settlement agreement.¹

Accordingly, the City requests leave to withdraw its Petition. 40 C.F.R. § 124.19(k). The Region assents to this motion.

In light of the foregoing, the parties jointly request that the Board dismiss the Petition in its entirety, with prejudice. *See In re Town of Uxbridge Wastewater Treatment Facility*, NPDES Appeal 13-06 (April 15, 2014) (Order Dismissing Petition for Review).

Following dismissal by the Board, the Region will commence permit modification proceedings.

III. REQUEST FOR RELIEF

¹ The parties intended to file a status report on February 16, 2016, consistent with the Board’s October 16, 2015 Order, but were unexpectedly unable to complete necessary final coordination over the filing. The Region contacted the Clerk of the Board on February 17, 2016 to inform the Board of this fact and committed to effectuate the necessary filing as soon as possible. The Region regrets this lapse.

For the reasons above, and to conserve administrative and judicial resources, the parties respectfully request that the Board issue an order dismissing the Petition in its entirety.

Dated: February 17, 2016

Respectfully submitted,

U.S. EPA – Region 1

City of Nashua

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Status Report, Petitioner's Motion for Leave to Withdraw the Petition and Joint Motion to Dismiss the Proceedings, in connection with In re City of Nashua Wastewater Treatment Facility, NPDES Appeal No. 15-06, was sent to the following persons in the manner indicated:

By Electronic Filing:

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

By Electronic Mail and U.S. Mail:

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Dated: February 17, 2016

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