

**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 AND SECOND MOTION TO STAY 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.

On July 7, 2015, the City and Region filed a joint motion requesting the Board to stay proceedings in the case to allow the parties to pursue settlement discussions. The Board granted the motion, ordering the parties to file a joint status report by August 5, 2015, and staying the proceedings until August 14, 2015. *See Order Granting Stay of Proceedings* at 2 (July 5, 2015).

II. Status Report

The City and EPA have been engaged in an exchange of settlement positions that includes a meeting between EPA and City representatives to discuss all the issues on appeal, followed by an exchange of technical data and information on several issues, the submittal of a written settlement proposal from the City, and a written response and counteroffer by EPA. The City is developing its response to EPA's counteroffer. The City, however, must still do additional work on several outstanding issues prior to finalizing its positions. Resolution of these issues requires coordination among the City, its counsel and its technical advisors, and that process has been unavoidably delayed as a result of pre-existing vacations schedules and other commitments.

III. Grounds for Extension of Stay

The parties have materially progressed toward a negotiated resolution of the appeal. Although the parties are not yet in a position to ascertain whether they will ultimately be able to resolve the issues on appeal through settlement, the discussions to date have been constructive and the parties share an interest in arriving at a negotiated agreement, if possible. Accordingly, the Region and the City respectfully request that the Board stay the above-captioned matter to provide the parties with additional time to conclude negotiations, taking into account the number of issues on appeal and the difficulty of coordinating schedules due to pre-existing vacations. The parties request that the Board stay the proceedings for forty-five (45) days. Under the proposed schedule, the parties would file a joint status report with the Board after thirty (30) days describing the status of negotiations and advising the Board whether it would be

appropriate to continue the stay to allow further negotiations or to allow the stay to expire.

CONCLUSION

For these reasons, and in the interest of conserving judicial resources, the parties respectfully request that the Board issue an order staying the proceedings for an additional forty-five (45) days.

Dated: July 31, 2015

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 and Second Motion to Stay 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
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Environmental Appeals Board
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