

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

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In the Matter of: ) )  
 ) )  
City of Taunton ) )  
Wastewater Treatment Plant ) )  
 ) )  
NPDES Appeal No. 15-08 ) )  
NPDES Permit No. MA0100897 ) )  
\_\_\_\_\_) )

**EPA REGION 1’S RESPONSE TO THE CITY OF TAUNTON’S  
MOTION REGARDING ORAL ARGUMENT AND RECUSAL**

Petitioner requests that the Environmental Appeals Board (“Board”) issue an order “confirming” four enumerated propositions of law to remedy alleged “bias” and “procedural errors” occurring at oral argument and avoid what it claims would be the introduction into this appeal of “new legal issues” and “new burdens of proof.” Mot. at 1, 16. Petitioner also seeks the recusal of Judge Mary Beth Ward. *Id.* at 11-16. Petitioner asserts that the Board should grant the City’s requested relief because, *inter alia*, it “does not prejudice EPA in any manner.” *Id.* at 17.

EPA Region 1 objects to Petitioner’s request for relief in the form of an order from the Board “confirming” the four enumerated propositions. Mot. at 16. Entry of such an order would prejudice EPA Region 1 because it would require the Board to consider and rule on the validity of Petitioner’s four enumerated propositions in advance of, and in isolation from, the other legal and factual issues in the case. If the Board ultimately determines that, after considering the

Parties' briefs, arguments and the totality of the Administrative Record, Petitioner's enumerated statements are deserving of "confirmation," the Board can so indicate in its decision resolving this appeal. There is simply no need for piecemeal resolution of this matter.

EPA Region 1 also opposes Petitioner's motion and request for relief regarding claims of bias arising from the Board's questions of, and statements to, counsel at oral argument, and Petitioner's request that Judge Ward recuse herself. We see nothing in the Board's rules, *e.g.*, 40 C.F.R. § 124.19(n), or the record that supports Petitioner's claims.

Dated: April 14, 2016

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing EPA Region 1's Response to the City of Taunton's Motion in the matter of City of Taunton Wastewater Treatment Plant, NPDES Appeal No. 15-08, was served on 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  
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By Electronic Mail and U.S. Mail:

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Dated: April 14, 2016

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Samir Bukhari