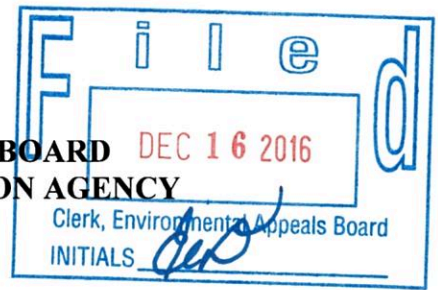


**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**



_____)
In re:)
)
Bridgewater Wastewater Treatment Plant) NPDES Appeal No. 16-01
)
NPDES Permit No. MA0100641)
_____)

**ORDER ON MOTION FOR STAY AND FOR ACCELERATED DECISION
AND REQUEST FOR ORAL ARGUMENT**

The Town of Bridgewater, Massachusetts, filed a petition for review challenging a National Pollutant Discharge Elimination System permit that authorizes discharges from the Bridgewater Wastewater Treatment Plant. Region 1 of the U.S. Environmental Protection Agency filed a motion to dismiss the petition for review as untimely and requested a stay of applicable deadlines for submitting a response to the petition and a certified index to the administrative record. On November 22, 2016, the Environmental Appeals Board (“Board”) ordered the Town of Bridgewater to file a response to the Region’s motion to dismiss and allowed a reply to the response in accordance with applicable regulations. The Board also stayed the Region’s response to the petition for review and certified index filings pending further order of the Board. The Region’s motion to dismiss was briefed as of November 30, 2016.

On December 5, 2016, the Town of Bridgewater filed three documents with the Board: a notice of appearance of new counsel for the Town of Bridgewater, a “Motion for Stay, and for Accelerated Decision” (“Stay Motion”), and a “Request for Oral Argument.” The Stay Motion asked the Board to stay its ruling on the Region’s motion to dismiss based on the Town of Bridgewater’s engagement of new counsel and the potential for a negotiated settlement. Stay Motion at 1-2. The Town of Bridgewater also requested oral argument on the Stay Motion,

maintaining that oral argument “should assist the Board” in resolving the Stay Motion and “allow for the most prudent allocation of the parties’ and the Board[’]s resources.” Request for Oral Argument at 1. Region 1 opposed the Stay Motion and requested that the Board rule on the Region’s motion to dismiss in its ordinary course. The Town of Bridgewater filed a reply in support of its request that the Board stay issuance of decision on the Region’s motion to dismiss and reiterated its request for oral argument on the Stay Motion. For the reasons that follow, the Town of Bridgewater’s Stay Motion is granted for a finite period of time and its Request for Oral Argument is denied.

With respect to the Town of Bridgewater’s Request for Oral Argument on the Stay Motion, whether to hold oral argument is left to the Board’s sole discretion under the applicable regulation. 40 C.F.R. § 124.19(h). Here, the Board determines that oral argument would not be of material assistance in resolving the briefed interlocutory Stay Motion and therefore denies the Town of Bridgewater’s request for oral argument on that motion. *See, e.g., In re Town of Newmarket*, NPDES Appeal No. 12-05, slip op. at 17 n.10 (EAB Dec. 2, 2013), 16 E.A.D. ____.


As to the Town of Bridgewater’s Stay Motion, the Region represented in its motion to dismiss that the Region “remains willing to engage in continued discussions with the Town outside any [Board] process over compliance and other considerations in a good faith effort to reasonably address, where appropriate, issues that are of concern to the Town.” EPA Region 1’s Motion to Dismiss the Petition as Untimely and to Stay the Filing of the Response to Petition and Certified Index of the Administrative Record at 5. The Town of Bridgewater also expressed a desire to explore the possibility of a negotiated settlement. *E.g.*, Stay Motion at 2. Based on the parties’ representations and the Town of Bridgewater’s recent engagement of new counsel, the Board finds it appropriate in these circumstances to defer its consideration of the Region’s

motion to dismiss for a finite period of time to provide the parties the opportunity to pursue settlement discussions, should they so choose. To provide sufficient time for discussions to occur in light of the upcoming holidays, the Board will defer consideration of the Region's motion to dismiss until **Monday, February 6, 2017**. In addition, on or before **Monday, February 6, 2017**, the parties are ordered to submit to the Board (either jointly or independently) a report on the status of any settlement discussions and whether a further deferral of the Board's consideration of the Region's motion to dismiss would materially assist any ongoing settlement discussions. (The Board's previous stay of the Region's response to the petition for review and certified index filings remains in effect pending further order of the Board.)

So ordered.

ENVIRONMENTAL APPEALS BOARD¹

Dated: 12/16/16

By: 

Aaron P. Avila
Environmental Appeals Judge

¹ The panel responsible for this order consists of Environmental Appeals Judges Aaron P. Avila, Mary Kay Lynch, and Mary Beth Ward.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order on Motion for Stay and for Accelerated Decision and Request for Oral Argument** in the matter of *Bridgewater Wastewater Treatment Plant*, NPDES Appeal No. 16-01, were sent to the following persons in the manner indicated:

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Date: DEC 16 2016



Annette Duncan
Administrative Specialist