



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

In re:
City of Keene
NPDES Permit No. NH-0100790
NPDES Appeal No. 21-03

ORDER FOR CLARIFICATION OF ADMINISTRATIVE RECORD

Pending before the Environmental Appeals Board ("Board") is a petition for review challenging a Clean Water Act National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency, Region 1 ("Region") to the City of Keene, New Hampshire ("City"). The case is set for oral argument on April 7, 2022. The Board is issuing this Order to obtain clarification about a document in the administrative record and to facilitate efficient resolution of the case.

The Region filed the Certified Administrative Record Index ("A.R. Index") on December 15, 2021. On February 25, 2022, the Board requested that the Region submit copies of identified records from the A.R. Index, including document number G.2. "Consolidated Assessment and Listing Methodology[,], NHDES-R-WD-20-20 October 16, 2020." The Region submitted documents on March 3, 2022, including a document labeled A.R. Index number G.2, titled "2020 Section 305(b) and 303(d) Consolidated Assessment and Listing Methodology," and dated October 16, 2020. This document is stamped with a "DRAFT" watermark. Furthermore, the Region's response to comments references a document, titled "2018 Section 305(b) and

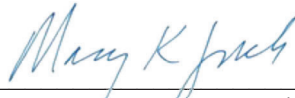
303(d) Consolidated Assessment and Listing Methodology,” and dated January 3, 2020. Resp. to Cmts. at 47 & n.7.

To ensure that the Board has a complete and accurate A.R. Index, the Board directs the Region to file a response clarifying which version of the Consolidated Assessment and Listing Methodology is included in the administrative record for this permit and, if necessary, providing an updated A.R. Index with any corrections, on or before Monday, **April 4, 2022**. See 40 C.F.R. §§ 124.17(b) (stating that “documents cited in the response to comments shall be included in the administrative record for the final permit decision”), 124.18 (specifying contents of administrative record).

So ordered.

Dated: Mar 30, 2022

ENVIRONMENTAL APPEALS BOARD

By: 
Mary Kay Lynch
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **ORDER FOR CLARIFICATION OF ADMINISTRATIVE RECORD** in the matter of *City of Keene*, NPDES Appeal No. 21-03, were sent to the following persons by electronic mail:

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Dated: Mar 30, 2022



Emilio Cortes
Clerk of the Board