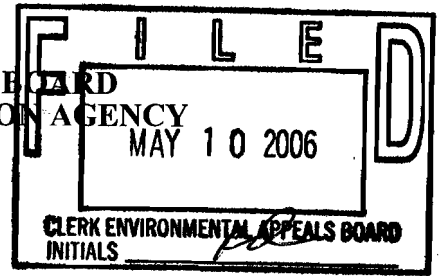


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:

City of Newburyport, Wastewater
Treatment Facility

NPDES Permit No. MA-0101427

NPDES Appeal No. 04-05

STAY ORDER

By submission received on May 4, 2006, the parties in the above-captioned matter, the City of Newburyport (the "City") and U.S. EPA Region I (the "Region"), state that they have reached a settlement agreement. *See* Settlement Agreement Regarding Petition for Review ("Settlement Agreement"). Under the Settlement Agreement, the Region will modify the City's permit in certain respects and issue public notice of the draft permit modification within 60 days of execution of the Settlement Agreement in accordance with the procedures set forth in 40 C.F.R. § 124.6. Settlement Agreement at ¶ 9. In addition, the Settlement Agreement states that the Region will "use reasonable efforts to issue a final modified permit within four (4) months after the close of the comment period prescribed by 40 C.F.R. § 124.10." *Id.* at ¶ 10. The Settlement Agreement further states that once these conditions are satisfied "the City's Petition shall, through operation of this document, be fully and completely withdrawn, with the parties hereto waiving all rights to administrative and judicial review of the Permit, except that, as set forth in paragraph 12 below, the City reserves its right to seek review of any other modifications to the Permit, including without limitation any changes that might arise out of the Permit modification process and remand proceedings, or any administrative appeal of the Region's determination regarding the permit modification." *Id.* at ¶ 7.

Upon review of the Settlement Agreement, the Board has determined that a further stay of this matter is appropriate so that the Region can proceed with permit modification proceedings in accordance with the Settlement Agreement. This matter is hereby stayed until December 15, 2006. The parties shall submit status reports to the Board no later than July 31, 2006 **and** September 29, 2006, on the progress of the modification proceedings. Upon successful completion of these proceedings in accordance with the Settlement Agreement, the parties shall immediately move the Board to withdraw the pending Petition for Review.¹

So ordered.

Dated: *May 9, 2006*

ENVIRONMENTAL APPEALS BOARD

By: *Kathie A. Stein*
Kathie A. Stein
Environmental Appeals Judge

¹ This Stay Order supercedes the Board's January 19, 2006 Order Extending Stay.

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Stay Order in the matter of City of Newburyport, Wastewater Treatment Facility, NDPEs Appeal No. 04-05, were sent to the following persons in the manner indicated:

First Class Mail
Return Receipt Requested:

Barry P. Fogel
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First Class Mail:

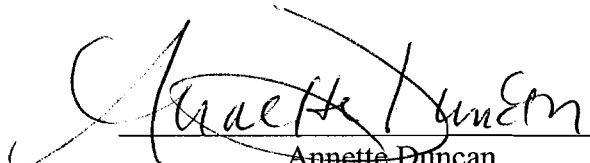
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Boston, MA 02114-2023

Dated: MAY 10 2006


Annette Duncan
Secretary