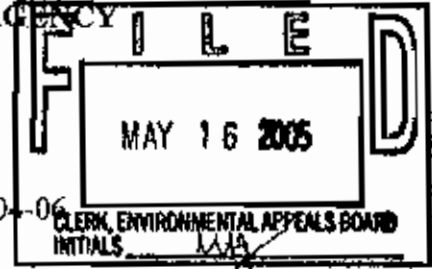


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:
City of Newburyport, Wastewater
Treatment Facility

NPDES Appeal Nos. 04-05 and 04-06

ADDITIONAL STAY ORDER

In a Status Report filed on March 24, 2005,¹ U.S. EPA Region I (the "Region") requested a further extension of the deadline to file its response to the petition for review filed by the City of Newburyport, Massachusetts (the "City") in NPDES Appeal No. 04-05. Status Report on Negotiations of NPDES Appeal No. 04-06 ("Status Report"). In a prior extension request, granted by the Board on January 18, 2005, the Region and the City stated that they had reached a settlement agreement but were unable to finalize the agreement until they knew the outcome of a second petition for review filed by the Island Futures Group ("IFG") (designated as NPDES Appeal No. 04-06). In granting the prior extension, the Board encouraged the Region and IFG to pursue the possibility of a negotiated resolution. See Order Extending Stay at 2 n.1 (EAB, Jan. 18, 2005).

In support of an additional stay in this matter, the Region stated that it and IFG were pursuing the possibility of a negotiated resolution, and that the parties "have tentatively agreed to meet in the near future." Status Report at 1. In addition, the Status Report stated that the parties were "exploring the possibility of having a third party neutral facilitate any meeting between the parties." *Id.* By Order dated March 28, 2005 ("Order"), the Board extended the time period for the Region to respond to the City's petition until June 30, 2005.

¹ Documents are "filed" with the Board on the date they are received.

Because the Region and the City have reached a tentative settlement agreement, and the Region and IFG are currently pursuing the possibility of settlement, the Board has decided to extend the stay of the City's appeal (NPDES Appeal No. 04-05) until September 30, 2005. The Board has also decided to stay consideration of IFG's appeal (NPDES Appeal No. 04-06) until that date as well, unless IFG's appeal is resolved before then or the Region or IFG notify the Board that they are no longer pursuing settlement. The Region and IFG shall provide the Board with a status report on the progress of settlement discussions no later than September 30, 2005.²

So ordered.

Dated: *May 16, 2005*

ENVIRONMENTAL APPEALS BOARD

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

² The Board continues to encourage all parties to endeavor to resolve this matter.

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Additional Stay Order in the matter of City of Newburyport, Wastewater Treatment Facility, NDPES Appeal No. 04-05 and 04-06, were sent to the following persons in the manner indicated:

First Class Mail
Postage Prepaid:


Barry P. Fogel
Keegan, Werlin & Pabian, LLP
265 Franklin Street
Boston, MA 02110-3113

M.R. Eigerman, President
Island Futures Group, Inc
P.O. Box 1392
Newburyport, MA 01950

Pouch Mail:

Tonia Bandrowicz
U.S. EPA Region I
Office of Regional Counsel (SEL)
One Congress Street, Suite 1100
Boston, MA 02114-2023

Dated: **MAY 16 2005**


Annette Duncan
Secretary