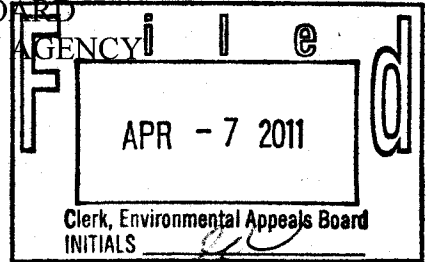


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



\_\_\_\_\_  
In re: )  
)  
)

City of Fitchburg Wastewater Treatment )  
Facilities Commission, )

Petitioner, )  
)  
)

NPDES Permit No. MA0100986 )  
\_\_\_\_\_  
)

NPDES Appeal No. 10-14

**THIRD ORDER GRANTING STAY**

On August 26, 2010, the City of Fitchburg Wastewater Treatment Facilities Commission (“the City”) petitioned the Environmental Appeals Board (“Board”) for review of an NPDES permit issued to the City by Region 1 of the United States Environmental Protection Agency (“the Region”). On September 23, 2010, the Board granted the parties’ initial request to stay the proceedings in this matter to allow the parties to undertake settlement negotiations. That stay was extended on January 7, 2011 until April 14, 2011, at the request of the parties and based on their representation that progress toward settlement was being made. In a second Status Report and Motion to Extend Stay, filed April 7, 2011 (“Motion”), the Region, with the assent of the City, moves for another extension of the stay to July 13, 2011. The proposed stay, if granted, will result in a total stay of this matter for nearly ten months.

During the last ninety days, the parties have engaged in “frank discussions regarding a potential resolution of this appeal through a compliance schedule,” and have taken significant steps toward achieving that result. Motion at 2. The Region is now reviewing the City’s proposed compliance schedule and believes that “negotiations are proceeding constructively,” and that further negotiations are “likely to result in a mutually acceptable compliance schedule.”

*Id.*

The parties seek to extend the stay of all proceedings to focus their time and effort on settlement negotiations, rather than on the proceedings before the Board, in the interest of conserving administrative and judicial resources. The Region requests an extension of the stay for an additional ninety days, and proposes to submit a status report no later than July 6, 2011. According to the Region, an extension of this length is reasonable and necessary to: (1) explore the engineering and cost aspects of the proposed compliance schedule; and (2) coordinate any facility improvements undertaken to comply with the contested permit limits with other significant, integrally related work that the City will likely need to undertake in the near future.

Having considered the motion and for good cause shown, the Region’s motion is GRANTED. This matter is stayed until **July 13, 2011**. A status report is due no later than **July 6, 2011**, to advise the Board as to whether a revised scheduling order should be entered, or whether some other Board action is appropriate. The Board assumes that, if this matter is not resolved by that time, any request for further extension of the stay would be based on significant

progress made and the Board will likely schedule a status conference before acting on any such request.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: April 7, 2011

Kathie A. Stein

Kathie A. Stein  
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Third Order Granting Stay, in the matter of City of Fitchburg Water Treatment Facilities Commission, NPDES Appeal No. 10-14 were sent to the following persons in the manner indicated:

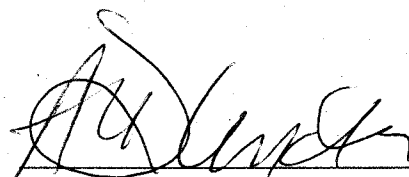
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Dated: APR -7 2011

  
Annette Duncan