

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

In re: City of Fitchburg)	
Wastewater Treatment Facilities Commission)	
)	NPDES Appeal No. 10-14
NPDES Permit No. MA 0100986)	

STATUS REPORT

Region 1 (“Region”) of the United States Environmental Protection Agency (the Respondent), with the assent of the City of Fitchburg (Massachusetts) Wastewater Treatment Facilities Commission (the permittee and Petitioner), notifies the Environmental Appeals Board (“Board”) that the parties have reached an agreement on a resolution of this appeal without the need for further litigation before the Board, and that Petitioner intends to submit a request for voluntary dismissal of its petition forthwith.

BACKGROUND

On July 22, 2010, the Region issued a final National Pollutant Discharge Elimination System (“NPDES”) permit to the City of Fitchburg Wastewater Treatment Facilities Commission (“City”) for the Fitchburg East Wastewater Treatment Facility and certain combined sewer overflows, NPDES Permit No. MA0100986 (“Permit”). On August 26, 2010, the City filed a Petition for Review of the Permit. On September 23, 2010, the Board granted the Region’s motion to stay the proceedings until January 14, 2011 to allow the parties to undertake settlement negotiations. On January 7, 2011, the Board issued an order granting the Region’s request to extend the stay to April 14, 2011. On April 7, 2011, the Board issued an order granting the Region’s request for a further

extension of the stay to July 13, 2011, and further ordered that the Region submit a status report by July 6, 2011. *In re City of Fitchburg Wastewater Treatment Facilities Comm'n*, NPDES Appeal No. 10-14, slip op. at 2 (EAB Apr. 7, 2011) (Third Order Granting Stay). On July 6, 2011, the Region, with the assent of the City, submitted a status report and motion for an extension of the stay, requesting a thirty-day extension of the stay to August 12, 2011, and proposing that, by August 5, 2011, either (1) having reached a settlement, the City would submit a request to dismiss its petition, or (2) having concluded that settlement is impossible, the parties would submit a status report so stating, and propose a revised schedule to litigate the appeal. *See In re City of Fitchburg Wastewater Treatment Facilities Comm'n*, NPDES Appeal No. 10-14, Doc. No. 16 (Status Report and Motion to Extend Stay) (July 6, 2011).¹

STATUS REPORT

The Region and the City have reached agreement on the text of a proposed administrative compliance order setting forth a schedule for reaching compliance with the Permit's contested effluent limits, including milestones and interim effluent limits. The Region and the City have agreed that, as soon as the Region informs the City that the Regional official delegated to sign such administrative compliance orders has signed the agreed-upon order, the City will submit to the Board a request to voluntarily dismiss its petition forthwith.

¹ That motion is still pending before the Board, but the developments reported in this status report likely render it moot.

The Region's undersigned counsel has discussed this Status Report with the City's counsel and represents that the City concurs with the Status Report.

Respectfully submitted,

Ronald A. Fein

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Date: August 5, 2011

CERTIFICATE OF SERVICE

I, Ronald A. Fein, hereby certify that copies of the foregoing Status Report were sent on the 5th day of August 2011 to the following persons in the manner described below:

Electronic posting to CDX system

Eurika Durr, Clerk of the Board
Environmental Appeals Board

Copy by e-mail

David E. Evans, Esq.
McGuireWoods LLP

Signed: August 5, 2011

Ronald A. Fein