



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA ELECTRONIC FILING

December 8, 2017

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

RE: In re Town of Fairhaven
NPDES Permit No. MA0100765; NPDES Appeal No. 17-08

Dear Ms. Durr:

Please find the attached First Joint Status Report and Acknowledgement of Consent to Electronic Service and accompanying Certificate of Service, in connection with NPDES Appeal No. 17-08.

Thank you for your assistance with this matter.

Sincerely,

/s/ Michael Curley
Michael Curley
US EPA – Region 1
Office of Regional Counsel
5 Post Office Square
Mail Code: ORC 04-6
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Email: curley.michael@epa.gov

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

_____)	
In the Matter of:)	
)	
Town of Fairhaven)	NPDES Appeal No. 17-08
)	
NPDES Permit No. MA0100765)	
_____)	

**FIRST JOINT STATUS REPORT AND ACKNOWLEDGEMENT OF CONSENT
TO ELECTRONIC SERVICE**

I. Background

On September 27, 2017, Region 1 of the United States Environmental Protection Agency (“Region”) issued National Pollutant Discharge Elimination System Permit No. MA0100765 (“NPDES Permit”) to the Town of Fairhaven, Massachusetts (“Fairhaven”), authorizing discharges of wastewater effluent from the Town’s Wastewater Pollution Control Facility to the Acushnet River (New Bedford Inner Harbor; Buzzards Bay Watershed; State Code 95-42). On October 27, 2017, Fairhaven filed a Petition for Review (“Petition”) with the Environmental Appeals Board (“EAB” or “Board”) requesting review of certain conditions of the NPDES Permit. On November 7, 2017, Fairhaven and the Region filed a joint motion requesting that the EAB stay proceedings in the case to allow the parties to pursue settlement discussions. The Board granted the motion, ordering the parties to file a joint status report by December 8, 2017, and staying

the proceedings until January 12, 2018. *See* Order Granting Joint Motion for Stay of Proceedings (Nov. 13, 2017).

II. Status Report

Following permit issuance, the Region provided Fairhaven with a draft Administrative Order on Consent (“Draft Order”) that included a compliance schedule for the facility to meet the Permit’s effluent limitations for Total Nitrogen. On November 16, 2017, the parties convened by telephone to discuss the appeal, the Draft Order, and other ancillary issues. Representatives from the Massachusetts Department of Environmental Protection (“MassDEP”) also participated in the call.¹ On December 6, 2017, Fairhaven provided the Region with proposed edits to the Draft Order, which the Region is currently reviewing. The Region intends to complete its review and share a revised draft with the Town shortly, and potentially convene a meeting or another telephone conference call between the parties, if necessary. Although the Region has yet to complete its internal review of the Town’s edits, it anticipates that at least some material edits to Fairhaven’s proposal will be necessary. Nevertheless, the parties remain optimistic about a negotiated resolution to the appeal.

III. Acknowledgement of Consent to Electronic Service

In addition, the parties hereby provide notice to the Board that they have conferred regarding the service of filings in this matter and that each consents to service

¹ As the Board is aware, although EPA is the NPDES permitting authority in Massachusetts, the Commonwealth generally issues an identical permit under the state Clean Waters Act, *see, e.g., In re City of Taunton*, NPDES Appeal No.15-08, slip op. at 16 n.10 (EAB May 3, 2016), as it did here.

by electronic mail as herein provided. *See* 40 CFR § 124.19(i)(3)(ii). Service on Fairhaven may be made by electronic mail to William E. Taylor at the following electronic address: wtaylor@pierceatwood.com. Service on the Region may be made by electronic mail to Michael Curley at the following electronic address: curley.michael@epa.gov

Dated: December 8, 2017

Respectfully submitted,

U.S. EPA – Region 1

Town of Fairhaven

/s/Michael Curley
Michael Curley
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/s/Michael Curley for William E. Taylor
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing First Joint Status Report and Acknowledgement of Consent to Electronic Service, in connection with *In re Town of Fairhaven*, NPDES Appeal No. 17-08, was sent to the following persons in the manner indicated:

By Electronic Filing:

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

By email:

Mr. William Taylor, Esq.
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254 Commercial St.
Portland, ME 04101
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Dated: December 8, 2017

/s/Michael Curley
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