



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
ONE CONGRESS STREET SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

VIA FAX AND VIA FIRST CLASS MAIL

Eurika Durr, Clerk of the Board
Environmental Appeals Board (MC 1103B)
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Re: NPDES Appeal No. 05-15
NPDES Permit NH0001562
Wausau Papers of New Hampshire, Inc. (Groveton, New Hampshire)

October 11, 2007

Dear Ms. Durr,

Attached is the Region's Status Report and Motion to Extend Stay in the above-captioned matter, and a certificate of service. In lieu of five additional paper copies, I have posted electronic copies of each document to the CDX system. Thank you.

Sincerely,

Ronald A. Fein, Assistant Regional Counsel
U.S. Environmental Protection Agency Region I

cc: William E. Taylor, Esq., Pierce Atwood LLP

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

In re:)))))
Wausau Papers of New Hampshire, Inc.))))	NPDES Appeal No. 05-15
Groveton, New Hampshire))))	

STATUS REPORT AND MOTION TO EXTEND STAY OF PROCEEDINGS

The New England Region of the Environmental Protection Agency (“Region”), after consultation with permittee-petitioner Wausau Paper Printing & Writing, LLC¹ (“Petitioner”), hereby submits this status report and moves to extend the stay of proceedings until November 15, 2007.

BACKGROUND

On September 20, 2005, the Region reissued a National Pollutant Discharge Elimination System Permit, No. NH0001562 (“Permit”), to Petitioner. On October 21, 2005, Petitioner filed, pursuant to 40 C.F.R. § 124.19(a), a Petition for Review (“Petition”) of the Permit. On October 27, 2005, the Board directed the Region to submit a response by December 14, 2005.

Since the filing of the Petition, the parties have moved for, and the Board has granted, a series of orders (dated November 28, 2005, April 20, 2006, July 12, 2006,

¹ The permittee and petitioner of record was originally Wausau Papers of New Hampshire, Inc., but has since changed to Wausau Paper Printing & Writing, LLC. This change has been reflected in appropriate permit modifications. For convenience, the Region continues to use the original caption for this proceeding.

November 9, 2006, March 8, 2007, and July 12, 2007) staying the proceedings while the parties engaged in settlement discussions. The last such order, dated July 12, 2007, stayed the proceedings in this matter until October 12, 2007, and required the Region to submit, on or before that date, a status report advising the Board whether it would be appropriate to continue the stay, dismiss the Petition, or establish a schedule for the Region to file a response to the Petition. That order also provisionally scheduled a status conference for October 18, 2007, in the event the matter had not been fully resolved before that date.

STATUS REPORT

As noted in the Region's previous status reports, the Region has elected to proceed by dividing the issues under discussion into two separate permit modifications. The first such modification, which was completed on May 9, 2007, finally resolved the issues raised in the Petition concerning the Permit's turbidity monitoring, flow, and total residual chlorine conditions. Since then, the Region has been attempting to complete a second permit modification, which would address the Permit's conditions regarding temperature and cooling water intake structures.

In the Region's last status report, the Region requested that the proceeding be stayed until October 12, 2007 so that the Region could accomplish the following tasks: (1) submit the second draft permit modification for public comment; (2) receive, review, and respond to public comments; (3) consult with state and federal wildlife agencies regarding this second draft permit modification, and (4) issue a final permit modification. The Region has accomplished the first three tasks. On August 16, 2007, after exchanging working drafts and comments thereon with Petitioner, the Region submitted for public

comment a draft permit modification pertaining to temperature and cooling water intake structures. During the thirty-day public comment period, Petitioner, the National Marine Fisheries Service (NOAA Fisheries), and the New Hampshire Fish and Game Department² submitted written comments on the draft permit modification.

Since the close of the public comment period, the Region has worked diligently to respond to all written comments and to make appropriate changes to the final permit modification in response to such comments. Unfortunately, the Region was not able to complete this process in time for this status report, and requires several more weeks to complete, sign, process, and issue the final permit modification.

GROUNDS FOR CONTINUANCE OF STAY

In light of the above progress, and in the interests of judicial economy and to conserve resources, the Region requests that these proceedings be stayed until November 15, 2007, in order to allow the Region sufficient time to: (1) finish the response to public comments and final permit modification; and (2) process and formally issue the final permit modification.

Absent a continuance of the stay, the parties will be required to divert their time and effort from an ongoing permit modification process to litigation before the Board.

REQUESTED RELIEF

Accordingly, the Region requests that the Board extend the stay of proceedings by approximately one month. The Region proposes that it will file a status report advising the Board when it has issued the final permit modification, but in any event no later than November 15, 2007. The Region also proposes that the Board require Petitioner to file,

² The Fish and Game Department has a statutory role under New Hampshire law in determining the state's water quality requirements applicable to thermal discharges. See N.H. Rev. Stat. Ann. § 485-A:8, VIII.

within 30 days after the issuance of the final permit modification, either an amended petition for review under 40 C.F.R. § 124.19(a) pertaining to the permit conditions affected by the second permit modification, or a notice of voluntary dismissal of its existing petition.

The Region represents that its undersigned counsel has discussed this motion with Petitioner's counsel, that Petitioner's counsel has reviewed and approved this status report and motion, and that Petitioner, through counsel, concurs in this status report and assents to the motion to extend the stay of proceedings.

Respectfully submitted,



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Date: October 11, 2007

In re: Wausau Papers of New Hampshire, Inc. (Groveton, New Hampshire)
NPDES Appeal No. 05-15

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Status Report and Motion to Extend Stay of Proceedings were sent to the following persons in the manner described below:

Copy by facsimile
Original by first class mail
Copy posted to CDX electronic system

Eurika Durr, Clerk of the Board
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Dated: October 11, 2007


