



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

VIA ELECTRONIC FILING AND CERTIFIED MAIL

OCT 15 2018

Clary Coutu
Keolis Commuter Services, LLC
470 Atlantic Avenue - 5th Floor
Boston, MA 02210

Thomas Joyce
Assistant Manager of Facilities and Engineering
c/o Delaware North Corporation
100 Legends Way
Boston, MA 02114

Andrew D. Brennan
Director of Environmental Affairs
Massachusetts Bay Transportation Authority
10 Park Plaza
Boston, MA 02116-3974

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: Notice of Partial Withdrawal Pursuant to 40 C.F.R. § 124.19(j);

NPDES Permit No. MA0028941 (North Station Railroad Terminal);
In re Keolis Commuter Services, LLC, NPDES Appeal No. 18-03

Dear Ms. Coutu, Mr. Joyce, Mr. Brennan, and Ms. Durr:

In accordance with 40 C.F.R. §§ 124.16 and 124.60, Region I of the United States Environmental Protection Agency ("EPA") is providing notice of partial withdrawal pursuant to 40 C.F.R. § 124.19(j) and intent to prepare a new draft permit in connection to National Pollutant Discharge Elimination System ("NPDES") Permit No. MA0028941.

The Region and the Massachusetts Department of Environmental Protection ("MassDEP") jointly issued National Pollutant Discharge Elimination System Permit No. MA0028941 ("NPDES Permit") to Keolis Commuter Services, LLC ("Keolis"), Massachusetts Bay Transportation Authority, and Delaware North Corporation as co-permittees on June 15, 2018, for discharges at North Station Railroad Terminal to the Charles River.


Keolis filed a Petition for Review ("Petition") with the Environmental Appeals Board ("EAB" or "Board") requesting review of one (1) condition of the NPDES Permit on July 18, 2018. On August 13, 2018, the parties filed a joint motion requesting a 90-day stay to provide time to explore settlement. The Board issued an order granting the motion on August 15, 2018, which stayed this matter until Tuesday, November 13, 2018. On August 24, 2018, EPA issued a notice that all conditions of the NPDES Permit would become fully effective and enforceable as of October 1, 2018, except the condition appealed by Keolis at Part I.B.9, which would remain stayed during the pendency of the permit appeal. The notice further stated that the co-permittees must comply with the condition of the previous permit (issued April 7, 2010) corresponding to the stayed condition; that is, the condition of the previous permit requiring inspection and maintenance of the absorbent pads for track areas where locomotives stop (to capture incidental drips of oil from the trains) and the oil/water separator on a monthly basis.

Under the regulations governing the EAB appeals process, the Regional Administrator may withdraw portions of a contested permit and prepare a new draft permit under 40 C.F.R. § 124.6 addressing the portions so withdrawn at any time prior to 30 days after filing the response to the petition. 40 C.F.R. § 124.19(j). To resolve the issue set out in the Petition, the Region has determined to exercise that right by withdrawing Section I.B.9 of the Final Permit and commencing a new draft permit proceeding to address the portion so withdrawn.

The new draft permit addressing the portion withdrawn will be subject to notice and an opportunity to comment pursuant to 40 C.F.R. § 124.10. As a result of the withdrawal of Section I.B.9, the co-permittees must continue to comply with the condition of the previous permit (issued April 7, 2010) corresponding to the withdrawn condition until final agency action in the new draft permit proceeding.

If you have any questions regarding this notice, please contact Joshua Secunda of the Office of Regional Counsel at (617) 918-1736.

Sincerely,

 for ADD
Alexandra Dapolito Dunn
Regional Administrator

cc: Eric L. Klein, Beveridge & Diamond. P.C., Counsel for Keolis Commuter Services, LLC
Susannah King, Massachusetts Department of Environmental Protection
Damien Houlihan, EPA
Diane Boisclair, EPA
George Papadopoulos, EPA