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January 27, 2016

## VIA EAB eFILING SYSTEM

Ms. Eurika Durr  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1103M  
Washington, D.C. 20460-0001

**Re: Appeal No. 15-08 - NPDES Permit No. MA0100897 - City of Taunton's Unopposed Motion to Allow Use of PowerPoint to Display Excerpts of the Record During Oral Argument**

Ms. Durr:

Attached please find for filing, the City of Taunton's Motion to Allow Use of PowerPoint to Display Excerpts of the Record During Oral Argument in the above-captioned appeal. EPA has indicated that it does not oppose this Motion. Thank you for your assistance with this filing.

Very truly yours,



Philip Rosenman

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

_____	)	
In re:	)	
	)	
City of Taunton	)	NPDES Appeal No. 15-08
Department of Public Works	)	
	)	
Permit No. MA0100897	)	
_____	)	

**PETITIONER’S UNOPPOSED MOTION TO ALLOW USE OF POWERPOINT TO  
DISPLAY EXCERPTS OF THE RECORD DURING ORAL ARGUMENT**

Petitioner, City of Taunton (“Taunton” or “the City”), hereby requests the Board to authorize Taunton’s use of PowerPoint to present excerpts from the administrative record during the upcoming oral argument. As explained below, the City’s use of PowerPoint would be simply to efficiently and effectively reproduce key charts, graphs, and citations already in the record and referenced in either the petition or reply briefs. This request would not prejudice EPA in any manner. Such relief is well within the Board’s discretionary authority under 40 C.F.R. § 124.19(h) and 40 C.F.R. § 124.19(n).<sup>1</sup> Counsel for Respondent, United States Environmental Protection Agency, (“EPA” or “the Agency”), has been contacted regarding this Motion and has indicated that EPA “does not object to the City’s motion to use visual excerpts from the administrative record in your argument.”

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<sup>1</sup> See 40 C.F.R. § 124.19(h) (“The Environmental Appeals Board may, by order, establish additional procedures governing any oral argument before the Environmental Appeals Board.”); 40 C.F.R. § 124.19(n) (“In exercising its duties and responsibilities under this part, the Environmental Appeals Board may do all acts and take all measures necessary for the efficient, fair, and impartial adjudication of issues arising in an appeal...”).

As the Board is aware, Taunton has alleged numerous procedural and substantive errors regarding the permit at issue. Oral argument to discuss these issues is currently scheduled for February 9, 2016. In preparing for this argument, Taunton has determined that, as a means to assist in the orderly presentation of argument, it would like to focus the Board's attention on specific statements, graphs, and charts made by the parties in this proceeding or in the comment/response process. *See* Ex. 1, Taunton's Proposed Presentation Materials.<sup>2</sup> The administrative record currently before the Board is extensive and granting the present Motion would allow Taunton to highlight (with precise administrative record and docket page cites) what it believes to be the most important records and statements in evaluating whether clear legal/factual error has occurred. Not only would such references eliminate any disputes over alleged factual statements, but they would serve to orient the Court to relevant physical conditions and geographical realities in the estuary in question. To be clear, Taunton would not be supplying the Board with any new content or argument. Rather, the information would consist of exact quotations of language and replications of charts/graphs (or excerpts thereof) already found in the governing administrative record and/or filings in this appeal's docket.

Taunton has been informed that – without leave from the Court – it may present specific pages of the administrative record and previous filings using the Court's on-screen touch telestration system or personal laptops. However, in most cases, specific language or charts are not easy to read in the full-page reproductions. Taunton's proposed presentation materials – while containing the exact same information – eliminate the illegibility concerns associated with fading and small print. That is, granting the present Motion would allow Taunton to supply the

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<sup>2</sup> In lieu of the actual presentation materials, the City is providing a "sample" of the type of excerpts to be used, rather than the complete collection of references themselves. This way the Board can ensure that the formatting is acceptable but not prematurely reveal the precise content of the City's oral argument to EPA.

Board with verbatim excerpts and replications from the record in a magnified manner that is easier for the Board to read and more efficient for undersigned counsel to reference in the context of oral argument.

Given that the City's requested relief is well within the Board's authority and does not prejudice EPA in any manner, the Board should grant this Motion and allow Taunton to use the proffered PowerPoint materials in the upcoming oral argument.

Respectfully submitted,

//s// John C. Hall  
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January 27, 2016

**CERTIFICATE OF SERVICE**

Undersigned hereby certifies that on this day, January 27, 2016, a copy of the City of Taunton's Unopposed Motion to Allow Use of PowerPoint to Display Excerpts of the Record During Oral Argument was served on the individuals identified below by U.S. first-class mail, postage pre-paid, and e-mail:

Curt Spalding, Regional Administrator  
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5 Post Office Square - Suite 100  
Boston, MA 02109-3912

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Dated on the 27th day of January, 2016.



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