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VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

George Dana Bisbee, Esq.
Devine, Millimet & Branch, P.A.
111 Amherst Street
Manchester, New Hampshire 03101

Randall W. Heglin, Director
Town of Jaffrey Public Works Department
23 Knight Street
Jaffrey, New Hampshire 03452

Re: Notice of Uncontested and Severable Conditions
NPDES Permit NH0100595
NPDES Appeal No. 09-18
Town of Jaffrey, New Hampshire Public Works Department

Dear Ms. Durr and Messrs. Bisbee and Heglin:

By letter to the Environmental Appeals Board dated October 31, 2009 and received by the Board on November 2, 2009, counsel for the Town of Jaffrey, New Hampshire Public Works Department ("Permittee"), filed, pursuant to 40 C.F.R. § 124.19(a), a Petition for Review ("Petition") of NPDES permit NH0100595 ("Permit"). The Permit had been reissued to the Town on September 28, 2009 by the New England Regional Office of the U.S. Environmental Protection Agency ("Region"). The Permit superseded the permit issued by the Region on July 30, 2001 ("Prior Permit").

In its Petition, the Permittee contests the following limitations and conditions of the Permit:

- (i) The total phosphorus concentration effluent limit (October, and April 1-June 30), found on page 2 of the Permit;

- (ii) The total phosphorus concentration effluent limit (July 1-September 30), found on page 3 of the Permit;
- (iii) The total phosphorus mass effluent limit (October, and April 1-June 30), found on page 2 of the Permit;
- (iv) The total phosphorus mass effluent limit (July 1-September 30), found on page 3 of the Permit;¹
- (v) The total recoverable aluminum effluent limits, found on pages 2 and 3 of the Permit;
- (vi) The total recoverable copper effluent limits, found on pages 2 and 3 of the Permit;
- (vii) The total recoverable lead effluent limits, found on pages 2 and 3 of the Permit;
- (viii) The total recoverable silver effluent limits, found on pages 2 and 3 of the Permit;
- (ix) The total recoverable zinc effluent limits, found on pages 2 and 3 of the Permit;
- (x) The flow limit (July 1 – September 30), found on page 3 of the Permit;
- (xi) The CBOD effluent limits (July 1 – September 30), for both concentration and mass, found on page 3 of the Permit;
- (xii) The TSS effluent limits (July 1 – September 30), for both concentration and mass, found on page 3 of the Permit;
- (xiii) The ammonia nitrogen a N limits (July 1 – September 30), for both concentration and mass found on page 3 of the Permit; and
- (xiv) The whole effluent toxicity chronic toxicity (WET C-NOEC) effluent limit, found on page 4 of the Permit and applicable year-round, but only contested as applied to the period July 1-September 30.

The limitations and conditions contested by the permittee are collectively referred to herein as the “Contested Conditions.” Pursuant to 40 C.F.R. §§ 124.16(a)(2)(ii) and 124.60(b), this letter notifies you of my determination that the Contested Conditions are stayed until final agency action under 40 C.F.R. § 124.19(f).

All conditions of the Permit other than the aforementioned Contested Conditions are uncontested and severable from the Contested conditions. In particular, where the Petition has specifically contested the effluent limit(s) for a pollutant but has not specifically contested monitoring and reporting requirements for that pollutant, such uncontested monitoring and reporting requirements are severable from the contested effluent limits.

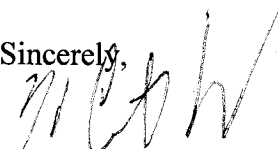
Thus, all of the other conditions are not stayed and will become fully effective enforceable obligations of the Permit on February 1, 2010, pursuant to 40 C.F.R.

¹ The Petition states that it is contesting a July 1-September 30 total phosphorus mass effluent limit of 3.1 lb/d. *See* Petition at 1. However, the Permit’s actual July 1-September 30 total phosphorus mass effluent limit is 1.0 lb/d. The Region construes the Petition as contesting the July 1-September 30 total phosphorus mass effluent limit notwithstanding the Petition’s erroneous statement of the actual numeric limit.

124.16(a)(2)(i). With respect to each of the Contested Conditions, the corresponding term, if any, in the Prior Permit shall remain in effect.

If you have any questions regarding this correspondence, please feel free to contact Ronald Fein, the Region's legal counsel in this matter at (617) 918-1040, or Dan Arsenault, in the Region's Office of Ecosystem Protection at (617) 918-1562.

Sincerely,



H. Curtis Spalding
Regional Administrator

cc: Stergios Spanos, NHDES
Stephen Perkins, EPA
Brian Pitt, EPA
Denny Dart, EPA