



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

VIA ELECTRONIC FILING

October 24, 2013

Eureka Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, DC 20460-0001

RE: Town of Concord Department of Public Works
NPDES Permit No. MA0100668; NPDES Appeal No. 13-08

Dear Ms. Durr:

Please find a Second Motion for Extension of Time to File Region 1's Response to Petition, and accompanying Certificate of Service, in connection with NPDES Appeal No. 13-08.

Sincerely,

Samir Bukhari
US Environmental Protection Agency
Office of Regional Counsel, Region I
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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

)	
In the Matter of:)	
)	
Town of Concord)	
Department of Public Works)	
)	
NPDES Permit No. MA0100668)	NPDES Appeal No. 13-08
)	

**SECOND MOTION FOR EXTENSION OF TIME TO FILE REGION 1’S
RESPONSE TO PETITION**

Region 1 of the United States Environmental Protection Agency (“Region”) and the Office of General Counsel (“OGC”) respectfully request that the Environmental Appeals Board (“Board”) extend the date by which the Region is required to file a response to the above-referenced petition for review. The basis for this motion is set out below.

BACKGROUND, REQUESTED RELIEF AND GROUNDS FOR RELIEF

On September 9, 2013, the Town of Concord, Massachusetts, timely petitioned the Board for review of a National Pollutant Discharge Elimination System permit issued by the Region to the Town for discharges to the Concord River from its wastewater treatment facility. The Region was required to file its response to the petition by October 9, 2013, a date which fell within the period of government shutdown. Shortly after the government re-opened, the Region requested an extension until November 8, 2013, to file its response in light of the uncertainty and disruption precipitated by the shutdown. *See* Motion for an Extension of Time To File Region 1’s Response to the Petition Due to the

Government Shutdown at 2 (October 18, 2013). The Town opposed the motion, arguing that “the Region references only non-specific circumstances in support of its request for a 21 day extension” and that “more information should be demanded of the Region to justify such an extension.” Opposition to Region 1’s Motion for Extension of Time to Submit Response to Petition at 2-3 (October 21, 2013). The Board partially granted the Region’s motion and established a new filing deadline of October 28, 2013. Order Granting, In Part, Motion for Extension of Time and Establishing October 28, 2013, as New Deadline for Response to Petition (October 23, 2013) at 3. The Board further noted that it will “consider a further request for an extension of time from the Region, if it finds that it needs additional time beyond the 11 days and provides more specific information justifying such extension.” *Id.*

EPA respectfully requests an additional three days, until October 31, 2013, to file its response. After the shutdown ended on October 17, the Region resumed its diligent efforts to draft a responsive brief and compile necessary administrative record materials that will accompany the filing with the Board. The Region expects to be able to deliver its draft brief to EPA Headquarters for review on Friday, October 25. Headquarters review will be undertaken by personnel in EPA’s Office of Water and Office of General Counsel. This Headquarters review is necessary to ensure that the positions advanced in the brief are consistent with national EPA policy and legal interpretation. Unfortunately, one OGC reviewing attorney has a previously scheduled house move on Friday and will not be able to review the brief until Monday. Nor it is certain that all necessary Office of Water reviewers will be available to review the draft brief on Friday. Moreover, the permit writer, whose presence is critical to resolving any questions that should arise

regarding the permit and record, is unavoidably scheduled to be out of the office on Monday, the day the brief is presently due to be filed, as well as Tuesday. In light of the foregoing, the Region and OGC respectfully request that the Board extend the Region's response date to Thursday, October 31, 2013.

The Town has informed the Region that it has no objection to the Region's requested extension.

Dated: October 24, 2013

Respectfully submitted,

Samir Bukhari
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Of Counsel:
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Water Law Office
Office of General Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Second Motion for an Extension of Time To File Region 1's Response to the Petition, in connection with In re Town of Concord, Department of Public Works, NPDES Appeal No. 13-08, 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
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U.S. EPA East Building, Room 3334
Washington, DC 20004

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Dated: October 24, 2013

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