

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

Region 1

1 Congress Street, Suite 1100
BOSTON, MA 02114-2023***FACSIMILE TRANSMISSION*****RESTRICTED INFORMATION**

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To: Eurika Durr, Clerk of the Board

Fax: (202) 233-0121

From: Joshua Caditz, Assistant Regional Counsel
US EPA Region 1

Date: Thursday, April 05, 2007

Number of pages including cover: 6

Return Fax: 617-918-0787

2007 APR -5 PM 4:19
EPA REGION 1 APPEALS BOARD

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

BY FACSIMILE

April 5, 2007

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, DC 20460-0001

Re: Town of Northbridge Wastewater Treatment Plant
Appeal No. NPDES 06-11

Dear Ms. Durr:

Enclosed please find a facsimile of the following Status Report in the above-captioned matter, as well as a certificate of service. I am also mailing you the original Status Report and submitting an electronic copy.

Please contact me at 617-918-1787, or by fax at 617-918-0787 or by electronic mail at Caditz.Joshua@epa.gov, if you need to discuss this filing.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua Caditz", written over a horizontal line.

Joshua Caditz
Assistant Regional Counsel

cc: Mr. Jeffrey T. Blake, Esq., Kopelman and Paige

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

APR 5 PM 4:12
ENVIR. APPEALS BOARD

In re:
**Town of Northbridge Wastewater
Treatment Plant**
NPDES Permit MA0100722

Appeal No. NPDES 06-11

STATUS REPORT ON SETTLEMENT DISCUSSIONS

The United States Environmental Protection Agency, New England Region ("Region") respectfully submits this Status Report to the Environmental Appeals Board ("Board") with respect to the above-captioned matter.

BACKGROUND

On September 13, 2006, the Region reissued NPDES Permit No. MA0100722 ("Permit") to the Town, authorizing wastewater discharges from the Northbridge Wastewater Treatment Plant into an unnamed tributary to the Blackstone River and establishing effluent limitations, monitoring requirements, and other conditions for such discharges. On October 16, 2006, the Town filed a petition for review by the Board contesting the Permit's phosphorus limit of 0.2 mg/l from April 1 – October 31, the phosphorus limit of 1.0 mg/l from November 1 – March 31, and the fecal coliform limits for the period of November 1 – March 31. The Board received the petition on October 16, 2006, and directed the Region to respond to the petition no later than December 4, 2006.

On November 29, 2006, the Board granted a stay of the proceedings until March 6, 2007, to enable the parties to negotiate a settlement of the issues raised in the petition for review. The Board also directed the parties to submit, by January 10, 2007, a status report on the progress of settlement discussions. On January 10, 2007, the Region filed a status report with the Board. On January 30, 2007, the Town submitted a report to the Region proposing a full-scale testing program to evaluate several alternatives for meeting the phosphorus permit limits. On February 14, 2007, the Region filed a motion to extend the stay of proceedings in order to evaluate the Town's proposal. On February 15, 2007, the Board granted an extension of the stay of proceedings until May 3, 2007, and directed the parties to submit a status report on the progress of settlement discussions no later than April 5, 2007.

STATUS REPORT

The parties continue to work towards settlement of the appeal of the phosphorus limits. The parties are currently focusing discussions on the timing and mechanisms for accomplishing the Town's proposal for short-term testing of phosphorus treatment options. The parties are planning to meet in April, to determine whether a mutually agreeable approach to such testing can be reached. Subsequent to that meeting, and no later than May 3, 2007, the Region will report to the Board as to whether such an agreement has been reached.

With respect to the contested fecal coliform limits for the period of November 1 – March 31 ("year round disinfection condition"), the Region has decided to withdraw and repropose the limits in order to take public comments on the limits. This will address the Town's concerns over the Region's decision to impose the year round disinfection condition, after the close of the public comment period, without *reissuing a modified*

draft permit for public comment. See Petition for Review at 19-20. As the EAB has not yet issued a decision as to whether to grant the Town's petition for review, the Region intends to exercise its authority under 40 C.F.R. § 124.19(d) to withdraw the Permit's fecal coliform limits for the period of November 1 - March 31. In accordance with 40 C.F.R. § 124.19(d), the Region will then issue for public comment a draft permit modification which would contain proposed fecal coliform limits for the period of November 1 - March 31. The draft permit modification will proceed through the same process of public comment and opportunity for public hearing as would apply to any other permit modification subject to 40 C.F.R. Part 124.

Respectfully submitted,

United States EPA, Region I



Joshua Caditz
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Caditz.Joshua@epa.gov

Dated: April 5, 2007

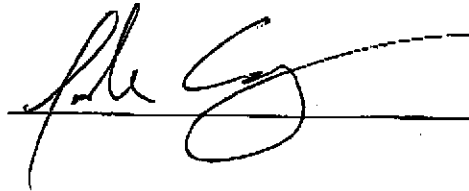
In the Matter of: Town of Northbridge Wastewater Treatment Plant
 Appeal No. NPDES 06-11

CERTIFICATE OF SERVICE

I, Joshua Caditz, hereby certify that one original copy of the foregoing Status Report was mailed by First Class Mail on this 5th day of April, 2007 to the Environmental Appeals Board 1103B, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460-0001, and that a copy of the foregoing was sent by First Class Mail, postage prepaid, to the following person:

Mr. Jeffrey T. Blake, Esq.
Kopelman and Paige, P.C.
101 Arch Street
Boston, MA 02110

Dated: April 5, 2007

A handwritten signature in black ink, appearing to read "J. Caditz", is written over a horizontal line. The signature is fluid and cursive.