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ENVIR. APPEALS BOARD

October 3, 2006

VIA FACSIMILE AND FIRST CLASS MAIL

U.S. Environmental Protection Agency
Environmental Appeals Board (MC1103B)
Attn: Eurika Durr, Clerk of the Board
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

**Re: Joint Motion to Dismiss NPDES Appeal No. 05-04
City of Brockton, Brockton Advanced Water Reclamation Facility
NPDES Permit No. MA0101010**

Dear Ms. Durr:

Due to a miscommunication between the Department of Justice and EPA-New England Region, the Office of Regional Counsel prematurely filed the above-referenced motion to dismiss, which was faxed to the EAB on September 26, 2006. As explained in the motion, the entry of a consent decree to resolve an ongoing enforcement action against the City of Brockton, Massachusetts was the precondition to dismissal of the pending appeal. Upon being informed that the consent decree had not in fact been entered (although entry was imminent), the Region requested that the EAB briefly delay ruling on the motion until further notice. Timothy Watts, the petitioner in this matter, agreed to this suggested course of action. Both the Department of Justice and the Region's enforcement counsel have now confirmed that the consent decree was entered on September 29, 2006. The Region, therefore, respectfully requests the EAB to proceed with ruling on the joint motion to dismiss.

If you should have any questions, please do not hesitate to contact me at 617-918-1095.

Sincerely,

Samir Bukhari
Attorney Advisor, Office of Regional Counsel

cc:

Timothy A. Watts

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