



**1 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
FIVE POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912**

VIA ELECTRONIC FILING

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, D.C. 20460-0001

Re: NPDES Appeal No. 09-18
NPDES Permit No. NH0100595
Town of Jaffrey, NH Public Works Department (Jaffrey, New Hampshire)

July 9, 2010

Dear Ms. Durr,

Enclosed please find the parties' Joint Status Report and Motion to Extend Stay of Proceedings 1 in the above-captioned case, with an attached certificate of service. Pursuant to the Board's January 28, 2010 standing order regarding electronic filing in proceedings not governed by 40 C.F.R. part 22, this document is being filed electronically only. The motion and the certificate of service have been posted electronically to the CDX system, and e-mailed to counsel of record today.

Sincerely,

/signed RAF/

Ronald A. Fein
Assistant Regional Counsel
U.S. EPA Region 1
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

/signed RAF for GDB /

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

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

In re: Town of Jaffrey, NH Public Works Department)	
Jaffrey, New Hampshire)	NPDES Appeal No. 09-18
NPDES Permit No. NH0100595)	
)	

STATUS REPORT AND MOTION TO EXTEND STAY

Region 1 (“Region”) of the United States Environmental Protection Agency (the Respondent) and the Town of Jaffrey, New Hampshire (the permittee and Petitioner) jointly provide this status report and respectfully request that the Environmental Appeals Board (“Board”) extend the stay the proceedings in the above-captioned matter by one additional months to August 25, 2010, to allow the parties to finalize a pending permit modification.

BACKGROUND

This is an appeal of NPDES Permit No. NH0100595 (“Permit”), which the Region reissued to Petitioner on September 28, 2009. On December 8, 2009, the Board issued a stay of proceedings for the parties to explore settlement negotiations, and stayed the appeal until March 24, 2010, which the Board later extended. Most recently, on May 12, 2010, the Board extended the stay to July 23, 2010 and ordered that a status report be filed no later than July 15, 2010, advising whether the Board should further extend the stay, establish a revised schedule for the litigation, or take other appropriate action.

STATUS REPORT

The parties have made substantial progress since the Board’s most recent order. On June 21, 2010, the Region issued a Notice of Withdrawal of Conditions Pursuant to 40 C.F.R. § 124.19(d), withdrawing certain effluent limits challenged by the Petition. On July 6, 2010, the

Region submitted a draft permit modification for public comment, modifying these and other effluent limits, with a 30-day public comment period ending on August 4, 2010. The parties have also worked cooperatively to develop a draft administrative compliance order pertaining to other effluent limits which are not being modified.

REQUESTED RELIEF AND GROUNDS FOR SUCH RELIEF

The parties jointly request that the Board extend the stay of proceedings by one additional month from July 23, 2010 to August 25, 2010. As noted above, the 30-day public comment period on the draft permit modification runs until August 4, 2010. After August 4, the Region will review any comments submitted and determine whether to request a further extension of the stay. If there are no comments requesting a change to the draft permit modification, then no extension should be needed. The parties propose to submit a status report by August 18, 2010, advising whether the Board should further extend the stay, establish a revised schedule for the litigation, or take other appropriate action.

An extension of this length is reasonable and necessary given the need to conduct the processes described above. If a stay is not granted, the parties will be forced to divert their time and effort to the proceedings before this Board, when there is a substantial possibility that at least some of the issues raised in the petition for review may be resolved through settlement discussions. Accordingly, in an effort to conserve administrative and judicial resources, and to encourage efficiency and promote judicial economy, the parties request that the Board grant this motion and stay all proceedings in this matter until August 25, 2010.

/signed RAF/
Ronald A. Fein, Assistant Regional Counsel
U.S. EPA Region 1
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

/signed RAF for GDB/
George Dana Bisbee
Devine, Millimet & Branch, P.A.
111 Amherst Street
Manchester, NH 03101

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Status Report and Motion to Extend Stay of Proceedings were sent on the 9th day of July 2010 to the following persons in the manner described below:

Posted to CDX electronic system

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, D.C. 20460-0001

Copy by e-mail as agreed

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

Signed: July 9, 2010

/signed RAF/

Ronald A. Fein