

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

In re:

NATIONAL POLLUTANT DISCHARGE  
ELIMINATION SYSTEM PERMIT  
NUMBER NH-0100790 FOR THE  
KEENE WASTEWATER TREATMENT  
PLANT

Permit Recipient: City of Keene, NH  
Public Works Department  
103 Washington Street  
Keene, NH 03431

**NOTICE OF APPEAL**

Permittee the City of Keene, New Hampshire (“Appellant”), by its undersigned counsel, hereby appeals issuance of the above captioned National Pollutant Discharge Elimination System (“NPDES”) Permit currently set to become effective December 1, 2021, EPA ID # NH-0100790,

<https://www3.epa.gov/region1/npdes/permits/2021/finalnh0100790permit.pdf>.

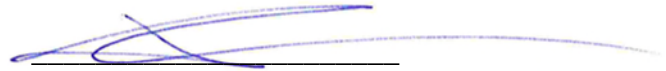
Together herewith, Appellant files an Unopposed Motion for Extension of Time to File Appeal Brief which, if granted, would extend the time for filing the brief supporting this Notice of Appeal to November 15, 2021. The individual authorized to receive service on behalf of the Appellant is Joanna B. Tourangeau of Drummond Woodsum at the address set forth below.

Respectfully submitted,

**CITY OF KEENE, NEW HAMPSHIRE**

By its attorney,

Dated: September 24, 2021



Joanna B. Tourangeau  
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(207) 253-0567  
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[jtourangeau@dwmlaw.com](mailto:jtourangeau@dwmlaw.com)

## CERTIFICATE OF SERVICE

I, Joanna B. Tourangeau, hereby certify that on this 24<sup>th</sup> day of September, 2021, I served the foregoing Notice of Appeal to the following persons in the manner indicated:

By FedEx Overnight Mail and Electronic Filing:

Mr. Emilio Cortes  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1201 Constitution Avenue, NW  
U.S. EPA East Building, Room 3334  
Washington, DC 20004

Ms. Kristen Scherb, Esq.  
Mr. Samir Bukhari, Esq.  
U.S. EPA Region 1  
Office of Regional Counsel  
5 Post Office Square  
Boston, MA 02109-3912  
[Scherb.Kristen@epa.gov](mailto:Scherb.Kristen@epa.gov)  
[Bukhari.Samir@epa.gov](mailto:Bukhari.Samir@epa.gov)

Ms. Deborah Szaro  
Acting Regional Administrator  
U.S. EPA New England – Region 1 Headquarters  
5 Post Office Square – Suite 100  
Boston, MA 02109-3912  
[Szaro.Deb@epa.gov](mailto:Szaro.Deb@epa.gov)



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Attorney for the City of Keene, NH

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103 Washington Street  
Keene, NH 03431

**UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE APPEAL BRIEF**

The City of Keene, New Hampshire (“Appellant” or “City”), by its undersigned counsel, hereby moves for a thirty day extension of time (from October 14, 2021 to November 15, 2021) within which to file the brief setting forth the factual and legal grounds for its appeal of issuance to the City of the National Pollutant Discharge Elimination System (“NPDES”) Permit which is currently set to become effective December 1, 2021, EPA ID # NH -0100790 (“Permit”). In support of this unopposed request, Appellant states as follows:

1. The City filed a Notice of Appeal in the above captioned matter simultaneous with this Unopposed Motion for an Extension of Time to File Appeal Brief.

2. The City requires an additional thirty days to obtain technical and legal assessment of the changes to the Permit from the draft and to assess the viability of options presented in the Response to Comments prepared by EPA Region 1. The comprehensiveness and complexity of EPA’s responses warrant sufficient time for review and consideration. Specifically, as just one example, the Response to Comments includes an eighteen page response regarding the critical issue of Total Nitrogen including references to legal documentation associated with the technical and legal objections made by the Springfield Water

and Sewer Commission. In addition, the Response to Comments includes several provisions providing opportunity for studies as mechanisms for addressing or altering Permit criteria. The additional time is necessary to obtain a fulsome understanding of EPA's responses to the City's comments and to consider all applicable regulatory provisions associated with the implementation of the site-specific studies in support of an informed decision regarding whether to appeal those Permit provisions. Appellant commenced this review immediately upon receipt of the Permit, but because of the extensive legal and technical review required, cannot complete it and prepare the brief without the requested extension.

3. The Environmental Appeals Board ("EAB") is authorized to grant an additional thirty days to file the brief supporting a notice of appeal so long as such motion is filed, as here, within a reasonable time. 40 C.F.R. § 124.19(g) (extensions of time permissible where promptly requested). Appellant's need to consider significant changes from the draft present good cause for grant of an extension. *See, e.g., In re Peabody Western Coal Co. Black Mesa Complex*, NPDES Appeal No. 09-10 (EAB Sept. 29, 2009) (Order Granting Extension of Time to Supplement Petition).

4. Counsel for EPA Region 1 authorized undersigned counsel to represent to the EAB that it does not oppose this extension request.

WHEREFORE, Appellant hereby respectfully requests that the EAB grant an extension of time to November 15, 2021 for it to file its brief supporting the Notice of Appeal in the above captioned matter.

Respectfully submitted,

**CITY OF KEENE, NEW HAMPSHIRE,**

By its attorney,



Dated: September 24, 2021

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By FedEx Overnight Mail and Electronic Filing:

Mr. Emilio Cortes  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1201 Constitution Avenue, NW  
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Mr. Samir Bukhari, Esq.  
U.S. EPA Region 1  
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Attorney for City of Keene, NH

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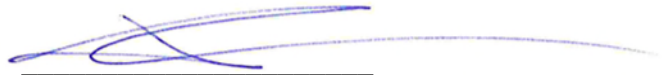
**CONSENT TO ELECTRONIC SERVICE**

The undersigned entity hereby consents to service by email of all motions, briefs, and other filings made with the Environmental Appeals Board in the instant appeal at the email addresses set forth below:

**CITY OF KEENE, NEW HAMPSHIRE**

By its attorney,

Dated: September 24, 2021



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Attorney for City of Keene, NH