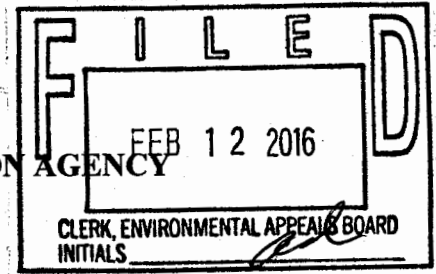


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ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ENVIR. APPEALS BOARD **WASHINGTON, D.C.**



In re:)

City of Taunton)
Department of Public Works)

Permit No. MA0100897)

NPDES Appeal No. 15-08

ORDER RESCHEDULING ORAL ARGUMENT FOR MARCH 1, 2016

The Board originally scheduled oral argument in the above-captioned matter for January 28, 2016. By order on January 26, 2016, following a blizzard that significantly impacted the mid-Atlantic region, including the closure of federal government buildings in Washington, D.C., the Board rescheduled oral argument for Tuesday, February 9, 2016. On Monday, February 8, due again to an impending winter storm anticipated to impact the Washington, D.C. area on February 9, the Board rescheduled oral argument to February 18, 2016.¹ The City of Taunton ("City") now seeks to have the argument rescheduled a third time to March 1 or 8, 2016. For reasons articulated below, the Board will reschedule the oral argument to March 1, 2016.

On February 10, 2016, counsel for the City emailed the Clerk of the Board asking to move the oral argument stating that "[t]he City of Taunton has a conflict on February 18th that is not resolvable and * * * [t]he City has confirmed that either March 1 or March 8th is open on their calendar." The Clerk of the Board informed counsel for the City that a "request to alter the Board's order scheduling oral argument cannot be accomplished by email," and asked counsel to file a motion pursuant to 40 C.F.R. § 124.19(f). On February 11, 2016, the City filed an

¹ As the counsel for the City correctly notes, the Board rescheduled these argument dates on its own authority, and not at the request of or in consultation with the parties.

“Unopposed Motion to Reschedule Oral Argument,” stating as its reason that “counsel for Taunton has an irreconcilable conflict with the current hearing date.” Unopposed Motion to Reschedule Oral Argument at 1.

The Board’s procedural rule governing motions requires a movant to “state with particularity the grounds for the motion.” 40 C.F.R. § 124.19(f). Counsel for the City has not provided the Board with any grounds that justify moving oral argument, because the Board does not know what counsel’s “irreconcilable conflict” is. Based on counsel’s email to the Clerk, it appears that counsel’s “irreconcilable conflict” may be the unavailability of his client – the City of Taunton – which would not necessarily warrant moving the argument without a further explanation as to who specifically was unavailable and why that person’s presence was needed.

Nevertheless, because the Region does not oppose the Motion, and because the Board does not anticipate that moving the argument date will result in any significant delay in the Board’s decision on this matter, the Board will reschedule the oral argument to March 1, 2016. Accordingly, oral argument is now scheduled for Tuesday, March 1, 2016, beginning at 10:00 AM Eastern Standard Time in the Administrative Courtroom located at the U.S. Environmental Protection Agency, William Jefferson Clinton East Building, Room 11521, 1201 Constitution Ave, N.W., Washington, D.C. The allocation of time for the argument remains unchanged. Any change as to who will present argument or attend shall be communicated to the Clerk of the Board in writing no later than February 23, 2016.²

² Oral arguments before the Board are open to the public. For security purposes, advance notice is required to gain entry into the EPA Building where the Courtroom is located. Members of the public wishing to attend oral argument must contact the Clerk of the Board (Eurika Durr, 202-233-0122, durr.eurika@epa.gov) sufficiently in advance of the oral argument to allow the Clerk reasonable opportunity to notify appropriate security personnel (i.e., one week prior to the scheduled oral argument).

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: 2/12/16

By: Mary Beth Ward
Mary Beth Ward
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the forgoing *Order Rescheduling Oral Argument* in the matter of the City of Taunton Department of Public Works, NPDES Appeal No. 15-08, were sent to the following persons in the manner indicated:

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Dated: _____

FEB 12 2016



Annette Duncan
Secretary



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