

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

In re:)	
)	
TOWN OF CONCORD, DEPARTMENT)	
OF PUBLIC WORKS)	NPDES APPEAL NO. 13-08
)	
NPDES Permit No. MA0100668)	
)	

SECOND JOINT STATUS REPORT

Region 1 of the United States Environmental Protection Agency (“Region”) and the Town of Concord, Massachusetts (“Town”) hereby submit this second status report to inform the Environmental Appeals Board (“Board”) of the current status of settlement negotiations.

Background

On September 9, 2013, the Town filed a petition for review with the Board challenging a National Pollutant Discharge Elimination System (“NPDES”) permit the Region issued to the Town. On October 31, 2013, the Region filed its Response to Petition for Review and a Certified Index to the Administrative Record. On November 15, 2013, the Town submitted its Reply to the Region’s Response to Petition for Review. On November 21, 2013, the Region filed a Notice of Uncontested and Severable Conditions in connection with NPDES Appeal No. 13-08. By Order dated January 6, 2014, the Board scheduled oral argument for March 26, 2014.

At the joint request of the parties to postpone oral argument to allow the parties to continue settlement negotiations with the intent of resolving the case without further litigation, the Board rescheduled oral argument from March 26, 2014 to May 22, 2014. The Board directed the parties to file reports every two weeks, beginning Friday, March 21, 2014, informing the

Board of the status of settlement negotiations. The parties' first status report was submitted on March 21, 2014.

Status Report

The parties continue to move forward with settlement discussions. As set forth in the parties' first status report, the Town, the Region, and MassDEP met on January 29, 2014 and March 4, 2014 at the Region's office to discuss potential settlement scenarios, and the Region subsequently provided the Town with a draft letter outlining a settlement scenario. The Town provided a formal response to the Region's draft letter on March 28, 2014. At this time, the Region is reviewing the Town's response and has indicated it would respond by April 15, 2014. The parties will provide the Board with an update on the progress of settlement discussions in the next report due on April 18, 2014.

Respectfully submitted,

THE TOWN OF CONCORD, DEPARTMENT
OF PUBLIC WORKS

/s/

Robert D. Cox, Jr., Esquire
Norman E. Bartlett, II, Esquire
BOWDITCH & DEWEY, LLP
311 Main Street
P.O. Box 15156
Worcester, MA 01615-0156
Telephone: 508-926-3409
Facsimile: 508-929-3012
E-mail: rcox@bowditch.com
E-mail: nbartlett@bowditch.com

REGION 1, US ENVIRONMENTAL
PROTECTION AGENCY

/s/

Samir Bukhari, Esquire
US Environmental Protection Agency
Office of Regional Counsel, Region 1
5 Post Office Square – Suite 100
Mail Code: ORA 18-1
Boston, MA 02109-3912
E-mail: bukhari.samir@epa.gov

Date: April 4, 2014

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Second Joint Status Report in connection with In re
Town of Concord, Department of Public Works, NPDES Appeal No. 13-08, was sent to the
following persons in the manner indicated:

By Electronic Mail:

Ms. Eureka Durr
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
Durr.Eurika@epa.gov

By U.S. Mail and Electronic Mail:

Samir Bukhari
US Environmental Protection Agency
Office of Regional Counsel, Region I
5 Post Office Square – Suite 100
Mail Code: ORA 18-1
Boston, MA 02109-3912
bukhari.samir@epa.gov

/s/

Robert D. Cox, Jr.

Dated: April 4, 2014