



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

VIA FEDERAL EXPRESS AND ELECTRONIC SUBMISSION

Eurika Durr
Clerk of the Board
U.S. EPA Environmental Appeals Board
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Paul A. Kennedy
Superintendent
City of Attleboro Department of Wastewater
77 Park Street
Attleboro, Massachusetts 02703

**Re: City of Attleboro, Massachusetts
Notice of Uncontested and Severable Conditions
NPDES Appeal Nos. 08-08 and 08-09
NPDES Permit No. MA0100595**

Dear Ms. Durr and Mr. Kennedy:

The City of Attleboro, Massachusetts ("City"), and the Rhode Island Department of Environmental Management ("RIDEM") timely petitioned the U.S. Environmental Protection Agency Environmental Appeals Board ("Board") for review of NPDES Permit No. MA0100595 ("Permit"), on July 9 and 10, 2008, respectively. The Permit had been issued by the New England Regional Office of the U.S. EPA ("Region") on June 9, 2008.

Pursuant to 40 C.F.R. § 124.19, the City seeks review of the Permit's: (i) average monthly total nitrogen effluent limit of 8.0 mg/l, applied seasonally from April 1 through October 31; (ii) average monthly total phosphorus effluent limits of 0.1 mg/l and 1.0 mg/l, applied seasonally from April 1 through October 31 and from November 1 through March 31, respectively; (iii) average monthly and/or daily limits for aluminum, copper, silver, nickel, lead, cadmium and cyanide; (iv) monitoring frequency for Whole Effluent Toxicity; and (v) the absence of a compliance schedule to achieve the average monthly total nitrogen effluent limit of 8.0 mg/l, the average monthly total phosphorus effluent limit of 0.1 mg/l, and the average monthly and/or daily metals limits.

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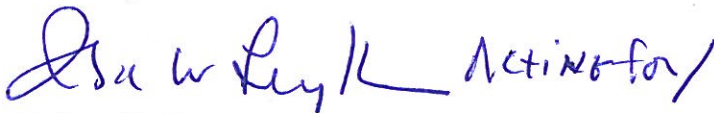
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RIDEM challenges the Permit's average monthly limits for copper, lead and cadmium, as well as the absence of an average monthly limit for zinc, on the grounds that the hardness data used by the Region to calculate these limits were not adequately representative of in-stream conditions.

The limits and conditions contested by the City and RIDEM are referred to herein as the "Contested Conditions." Pursuant to 40 C.F.R. §§ 124.16(a)(2)(ii) and 124.60(b), this letter notifies you of my determination that the Contested Conditions are stayed during the pendency of this appeal and until final agency action under 40 C.F.R. § 124.19(f). With respect to each of the Contested Conditions, the corresponding term, if any, in the City's prior permit issued September 30, 1999, shall remain in effect. All other conditions of the Permit are uncontested and severable from the Contested Conditions. Thus, all of the other conditions will become fully effective enforceable obligations of the Permit on October 1, 2008, consistent with 40 C.F.R. § 124.16(a)(2)(i).

If you have any questions regarding this correspondence, please feel free to contact Samir Bukhari, the Region's legal counsel in this matter, at 617-918-1095, or Brian Pitt, in our Office of Ecosystem Protection, at 617-918-1586.

Sincerely,



Robert W. Varney
Regional Administrator