



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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ENVIR. APPEALS BOARD

OCT 18 2007

**VIA CERTIFIED MAIL**

Eurika Durr, Clerk of the Board (MC 1103B)  
Environmental Appeals Board  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-001

John A. MacLean, City Manager  
City of Keene  
3 Washington Street  
Keene, New Hampshire 03431-3191

Re: Notice of Uncontested and Severable Conditions  
NPDES Permit No. NH0100790  
NPDES Appeal No. 07-18

Dear Mr. MacLean:

On September 28, 2007, the City of Keene, New Hampshire ("Permittee"), filed a Petition for Review of NPDES Permit No. NH0100790 ("Permit") with the U.S. EPA Environmental Appeals Board ("Board") pursuant to 40 C.F.R. § 124.19(a). The Permit had been reissued to the Permittee on August 24, 2007, by the New England Regional Office of the U.S. Environmental Protection Agency ("Region"). The Permit superseded the permit issued by the Region on April 15, 1994 ("Prior Permit").

In its Petition, the Permittee contests the following Permit limits: (i) the seasonal (April 1- October 31) monthly average phosphorus limit of 0.2 mg/l; (ii) the seasonal (November 1- March 31) monthly average phosphorus limit of 1.0 mg/l; (iii) the monthly average and maximum daily total recoverable copper limit of 5.9 ug/l and 7.9 ug/l, respectively; (iv) the monthly average total recoverable lead limit of 1.1 ug/l; and (v) the monthly average and maximum daily total recoverable zinc, each calculated to be 77 ug/l.

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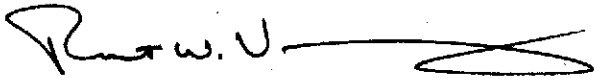
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The limits and conditions contested by the Permittee are referred to herein as the "Contested Conditions." Pursuant to 40 C.F.R. §§ 124.16(a)(2)(ii) and 124.60(b), this letter notifies you of my determination that the Contested Conditions are stayed 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 Prior Permit shall remain in effect. All other conditions of the Permit are uncontested and severable from the Contested Conditions. Thus, all of the other conditions are not stayed and will become fully effective enforceable obligations of the Permit on December 1, 2007, 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 Jeanne Voorhees, in our Office of Ecosystem Protection, at 617-918-1686.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Varney", followed by a long horizontal flourish.

Robert W. Varney  
Regional Administrator

cc: Andrew W. Serrell, Rath, Young and Pignatelli, P.C. (via electronic mail)  
Donna Hanscomb, Assistant Public Works Director, City of Keene (via electronic mail)  
Roger Janson, EPA  
Brian Pitt, EPA  
Jeanne Voorhees, EPA  
Edie Goldman, EPA  
Denny Dart, EPA