



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA ELECTRONIC FILING

February 9, 2018

Eurika 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

RE: In re Town of Fairhaven
NPDES Permit No. MA0100765; NPDES Appeal No. 17-08

Dear Ms. Durr:

On February 8, 2018, the parties filed the Third Joint Status Report with the Environmental Appeals Board in connection with NPDES Appeal No. 17-08. Inadvertently included in the report, however, was some erroneous text in the heading on the second page that could suggest that the parties were also requesting an extension of the existing stay. This text was included in error; the parties did not intend to ask the Board for an extension at this time. As a result, the parties wish to replace the Third Joint Status Report filed on February 8, 2018, with the attached corrected version.

Thank you for your assistance with this matter.

Sincerely,

/s/ Michael Curley
Michael Curley
US EPA – Region 1
Office of Regional Counsel
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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

_____)	
In the Matter of:)	
)	
Town of Fairhaven)	NPDES Appeal No. 17-08
)	
NPDES Permit No. MA0100765)	
_____)	

THIRD JOINT STATUS REPORT (corrected)

I. Background

On September 27, 2017, Region 1 of the United States Environmental Protection Agency (“Region”) issued National Pollutant Discharge Elimination System Permit No. MA0100765 (“NPDES Permit”) to the Town of Fairhaven, Massachusetts (“Fairhaven”), authorizing discharges of wastewater effluent from the Town’s Wastewater Pollution Control Facility to the Acushnet River. Fairhaven filed a Petition for Review with the Environmental Appeals Board (“EAB” or “Board”) requesting review of certain conditions of the NPDES Permit. The Board has granted the parties’ joint motions, first to stay the case to allow the parties to pursue settlement discussions, *see* Order Granting Joint Motion for Stay of Proceedings (Nov. 13, 2017), and then to continue the stay to provide more time for those discussions, *see* Order Granting Second Joint Motion for Stay of Proceedings (Jan. 9, 2018). The Board’s January 9, 2018, Order also requires the parties to file this third joint status report by February 8, 2018.¹

¹ The parties originally filed this Third Joint Status Report on February 8, 2018, but inadvertently included text in the heading on the second page of the report that may have suggested that the parties were also

II. Status Report

The parties have continued to make progress on a potential settlement. Since the Board's January 9, 2018, Order, Fairhaven has been preparing written materials to provide information requested by the Region regarding the terms of a draft Administrative Order on Consent and an appropriate schedule of steps for coming into compliance with certain conditions of the permit. The Town represents that it will provide these materials to the Region in advance of a meeting that the parties and representatives of the Massachusetts Department of Environmental Protection ("MassDEP") have scheduled for February 12, 2018. In such event, the parties and MassDEP will discuss the Town's submission and the terms of the draft Administrative Order at the meeting.

Dated: February 9, 2018

Respectfully submitted,

U.S. EPA – Region 1

Town of Fairhaven

/s/ Michael Curley
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requesting an extension of the existing stay. This text was included in error; the parties did not intend to ask the Board for an extension at this time. As a result, the parties re-filed this virtually identical Third Joint Status Report on February 9, 2018, minus the potentially confusing text.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Third Joint Status Report in connection with *In re Town of Fairhaven*, NPDES Appeal No. 17-08, was sent to the following persons in the manner indicated:

By Electronic Filing:

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

By email:

Mr. William Taylor, Esq.
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Dated: February 9, 2018

/s/ Michael Curley
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