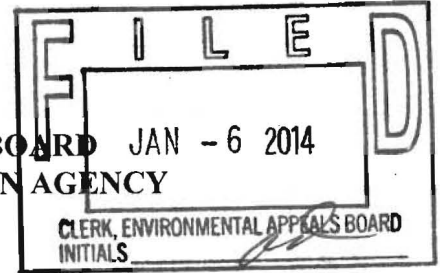


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



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In re: )

Town of Concord )

NPDES Appeal No. 13-08

NPDES Permit No. MA0100668 )

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**ORDER SCHEDULING ORAL ARGUMENT AND DENYING MOTION  
FOR LEAVE TO FILE A SUR-REPLY**

On September 9, 2013, the Town of Concord, Massachusetts (“Town”), filed a petition for review with the Environmental Appeals Board (“Board”) challenging a National Pollutant Discharge Elimination System (“NPDES”) permit U.S. Environmental Protection Agency Region 1 (“Region”) issued to the Town. In its petition, the Town requested oral argument in this matter. *See* Petition for Review at 37. The Region filed a response to the Town’s petition on October 31, 2013, to which the Town filed a reply on November 15, 2013. The Region also filed a motion requesting it be allowed to file a sur-reply, which the Town opposed. *See* Respondent Region 1’s Motion for Leave to File Sur-Reply (Nov. 29, 2013) (attaching proposed sur-reply); Petitioner’s Opposition to Region 1’s Motion for Leave to File Sur-Reply (Dec. 6, 2013).

After reviewing the petition, response, and reply, the Board has determined that oral argument will assist it in its deliberations on this matter. *See* 40 C.F.R. § 124.19(h) (authorizing oral argument at the Board’s discretion). The Board is especially interested in hearing further discussion on the issues of the final permit’s flow, aluminum, and pH effluent limits.

Accordingly, the parties are hereby requested to participate in oral argument beginning at

1:30 p.m. Eastern Time on Wednesday, March 26, 2014, in the Administrative Courtroom, U.S. Environmental Protection Agency, William Jefferson Clinton East Building, Room 1152, 1201 Constitution Avenue, N.W., Washington, D.C. The Board has allocated sixty (60) minutes total for this oral argument, divided as follows: (1) thirty minutes for the Town and (2) thirty minutes for the Region. The Town will proceed first and may reserve up to five minutes of its allotted time for rebuttal.

The parties must notify the Clerk of the Board in writing by March 5, 2014, of the names of counsel who will present argument. If counsel for either of the parties wishes to participate in this oral argument using the videoconferencing equipment in the Administrative Courtroom, counsel must contact the Clerk of the Board at (202) 233-0122 no later than March 5, 2014, to make arrangements for use of such equipment.

The Board's decision to hold argument in this case obviates the need for a sur-reply brief. Accordingly, the Region's motion for leave to file such a brief is DENIED. *See generally* 40 C.F.R. pt. 124 (no provisions authorizing sur-reply briefs as a matter of right). The Region, however, is free to raise any of the arguments made in its proposed sur-reply at oral argument as it sees fit.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: January 6, 2014

By: 

Randolph L. Hill  
Environmental Appeals Judge

## CERTIFICATE OF SERVICE

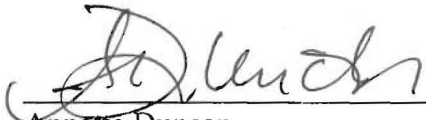
I hereby certify that copies of the foregoing *Order Scheduling Oral Argument and Denying Motion for Leave to File Sur-Reply* in the matter of Town of Concord, NPDES Appeal No. 13-08, were sent to the following persons in the manner indicated:

**By U.S. First Class Mail and Facsimile:**

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**By EPA Pouch Mail and Facsimile:**

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\_\_\_\_\_

Annette Duncan

Secretary

JAN - 6 2014

Date: \_\_\_\_\_