



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

VIA ELECTRONIC FILING

March 8, 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:

Please find the attached Fourth Joint Status Report, and accompanying Certificate of Service, in connection with NPDES Appeal No. 17-08.

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)	
_____)	

FOURTH JOINT STATUS REPORT

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 Fourth Joint Status Report by March 8, 2018.

II. Status Report

The parties continue to work towards a potential settlement. As anticipated in the previous status report, Fairhaven, the Region, and representatives of the Massachusetts Department of Environmental Protection (“MassDEP”) convened on February 12, 2018, in a meeting that focused largely on a potential schedule for coming into compliance with permit terms. Unfortunately, the group was unsuccessful in reaching agreement on a schedule at that meeting. In follow-up telephone conversations among the attorneys for the parties, the Region raised another option to the Town for coming into compliance with permit terms. As a result, the Town began preparing a revised proposed schedule, which it intends to provide to the Region and MassDEP on March 12, 2018. Naturally, EPA and MassDEP will need some time to evaluate the new proposal and discuss it with Fairhaven. Thus, at this time, the parties are unsure of a realistic timeframe for when settlement discussions may be concluded and the appeal dismissed or whether the stay, which currently expires on March 16, 2018, should be lifted. The parties hereby commit, however, to filing an additional written update with the Board prior to March 16, 2018, advising the Board of any developments and requesting appropriate action, depending on the specifics of the Town’s forthcoming proposal and subsequent discussions among the Town, the Region, and MassDEP.

Dated: March 8, 2018

Respectfully submitted,

U.S. EPA – Region 1

Town of Fairhaven

/s/Michael Curley
Michael Curley

/s/ Michael Curley for William E. Taylor
William E. Taylor, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Fourth 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:

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Dated: March 8, 2018

/s/ Michael Curley
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