



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
FIVE POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

VIA FAX, ELECTRONIC FILING, AND FIRST CLASS MAIL

Eurika Durr, Clerk of the Board
Environmental Appeals Board (MC 1103B)
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Re: NPDES Appeal No. 09-18
NPDES Permit No. NH0100595
Town of Jaffrey, NH Public Works Department (Jaffrey, New Hampshire)

March 11, 2010

Dear Ms. Durr,

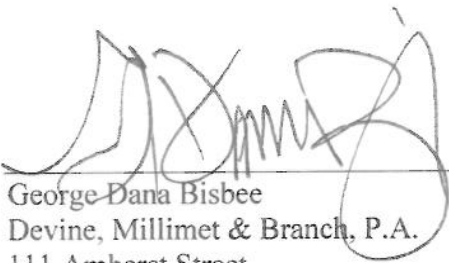
Enclosed please find the original of the parties' Joint Status Report and Motion to Extend Stay of Proceedings in the above-captioned case, with an attached certificate of service. The motion and the certificate of service have also been mailed to the Board and to counsel of record today. In lieu of five additional paper copies for the Board, an electronic copy has been posted to the CDX system.

Please also note that, due to counsels' inadvertence, the status report is being submitted one day late. Both counsel apologize for the foregoing and request that the Board receive and consider the status report and motion notwithstanding its lateness.

Sincerely,



Ronald A. Fein
Assistant Regional Counsel
U.S. EPA Region 1
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912



George Dana Bisbee
Devine, Millimet & Branch, P.A.
111 Amherst Street
Manchester, NH 03101

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

In re: Town of Jaffrey, NH Public Works Department Jaffrey, New Hampshire))
NPDES Permit No. NH0100595)) NPDES Appeal No. 09-18

STATUS REPORT AND MOTION TO EXTEND STAY

Region 1 (“Region”) of the United States Environmental Protection Agency (the Respondent) and the Town of Jaffrey, New Hampshire (the permittee and Petitioner) jointly provide this status report and respectfully request that the Environmental Appeals Board (“Board”) extend the stay the proceedings in the above-captioned matter by an additional sixty days to May 24, 2010, to allow for the parties to continue settlement negotiations.

BACKGROUND

The Region reissued NPDES Permit No. NH0100595 (“Permit”) to Petitioner on September 28, 2009. On November 2, 2009, Petitioner filed a petition for review with the Board contesting certain conditions of the Permit. By letter dated November 6, 2009, the Board directed the Region to prepare a response that addresses Petitioner’s contentions and whether Petitioner has satisfied the requirements for obtaining review.

On December 3, 2009, the Region, with the assent of Petitioner, requested a stay of proceedings to enable the parties to explore settlement negotiations. The Region proposed Region proposed to submit a status report no later than March 24, 2010, advising whether the Board should further extend the stay, establish a revised schedule for the litigation, or take other appropriate action. On December 8, 2009, the Board issued an order extending the stay to March 24, 2010, but requiring that a status report be filed no later than March 10, 2010, advising

whether the Board should further extend the stay, establish a revised schedule for the litigation, or take other appropriate action.¹

STATUS REPORT

Since the Board's order, the Town and EPA Region 1 (Region) have worked toward a resolution of the outstanding issues since the stay was ordered on December 8, 2009. Petitioner and its undersigned counsel met with the Region's program staff and undersigned counsel at EPA's Boston office on January 7, 2010 to discuss resolution of the appeal via settlement. On February 11, 2010, Petitioner submitted to the Region and to the New Hampshire Department of Environmental Services (NHDES) a proposal for settlement that would include, *inter alia*, a permit modification, interim limits, and a compliance schedule to comply with the phosphorus and aluminum limits in the permit. Today (March 11, 2010), the Region conducted a conference call with NHDES to discuss Petitioners' proposal. Furthermore, Petitioner and NHDES have been engaged in an exchange of technical information relating to a challenged permit condition of the permit that was attributable to NHDES's Section 401 water quality certification.

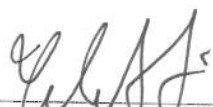
The Region, in conjunction with NHDES, has been carefully considering Petitioners' proposal. While the Region has not yet formally responded to the particulars of that proposal, the Region believes that it is still likely that some or all of the issues in this appeal can be resolved through settlement.

REQUESTED RELIEF AND GROUNDS FOR SUCH RELIEF

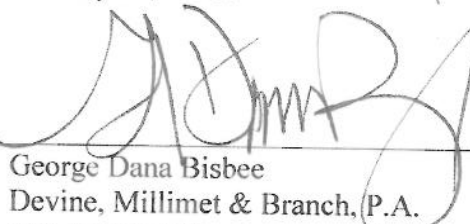
The parties jointly requests that the Board extend the stay of proceedings by sixty days from March 24, 2010 to May 24, 2010. The parties proposes to submit a status report no later than May 12, 2010, advising whether the Board should further extend the stay, establish a revised schedule for the litigation, or take other appropriate action.

¹ Due to inadvertence on the part of counsel for both parties, this status report and motion to extend stay is being filed one day late. The undersigned counsel for both parties apologize and respectfully request that the Board receive and consider this status report and motion notwithstanding its delay.

An extension of this length is reasonable and necessary given the need to resolve certain issues raised by Petitioners' settlement proposal, the need to consult with the New Hampshire Department of Environmental Services, and the need to schedule discussions between personnel from the Region and Petitioner. If a stay is not granted, the parties will be forced to divert their time and effort to the proceedings before this Board, when there is a substantial possibility that at least some of the issues raised in the petition for review may be resolved through settlement discussions. Accordingly, in an effort to conserve administrative and judicial resources, and to encourage efficiency and promote judicial economy, the parties request that the Board grant this motion and stay all proceedings in this matter until May 24, 2010.



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Status Report and Motion to Extend Stay of Proceedings were sent on the 11th day of March 2010 to the following persons in the manner described below:


Original by first class mail
Copy by fax
Copy posted to CDX electronic system

Eurika Durr, Clerk of the Board
Environmental Appeals Board (MC 1103B)
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Copy by fax
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Copy by e-mail

George Dana Bisbee, Esq.
Devine, Millimet & Branch, P.A.
111 Amherst Street
Manchester, NH 03101

Signed: March 11, 2010



Ronald A. Fein