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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY-4 PM 2: 22
REGION I
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VIA FAX

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

Fax (202) 233-0121

Re: NPDES Appeal No. 05-17
NPDES Permit No. MA0000272
Boston & Maine Corporation
East Deerfield, Massachusetts

Date: August 3, 2006

Dear Ms. Durr,

Enclosed please find a Status Report in the above-captioned case, as well as a certificate of service. The original and five copies have been sent today via first class mail.

Sincerely,

A handwritten signature in black ink, appearing to read "R. A. Fein".

Ronald A. Fein, Assistant Regional Counsel
U.S. Environmental Protection Agency Region 1
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114
617-918-1040
Fax: 617-918-0040

cc: Jamison E. Colburn, Western New England College School of Law
John Curtin, Boston & Maine Corporation

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

NOV 14 PM 2: 22

ENVIR. APPEALS BOARD

In re: _____)
Boston & Maine Corporation)
East Deerfield, Massachusetts)
_____))

NPDES Appeal No. 05-17

STATUS REPORT

The New England Region of the Environmental Protection Agency (“Region”), after consultation with the Connecticut River Watershed Council, Inc., and Jamison E. Colburn (“Petitioners”), hereby submits this status report. The Region does not request any relief at this time.

BACKGROUND

On September 23, 2005, EPA reissued a National Pollutant Discharge Elimination System Permit, No. MA0000272 (“Permit”), to the Boston & Maine Corporation (“Permittee”). On October 27, 2005, Connecticut River Watershed Council, Inc., and Jamison E. Colburn (“Petitioners”) filed a petition for review with the Environmental Appeals Board (“Board”) contesting various aspects of the Permit and the process leading to its issuance. On November 2, 2005, the Board directed the Region to submit a response by December 20, 2005. On December 2, 2005, the Region requested a forty-five day extension of time in light of the fact that the parties had entered into settlement negotiations and anticipated resolving the issues raised by the petition through a permit modification. On December 7, 2005, the Board granted the Region’s request and extended the deadline for the Region’s response to February 3, 2006.

On January 18, 2006, the Region moved for an additional 90-day stay of proceedings. On January 23, 2006, the Board issued an order staying the proceedings in this matter until May 3, 2006. On March 17, 2006, the Region moved for an additional 60-day stay of proceedings to enable the Region to finish consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service (“Services”), and issue a permit modification that would resolve the issues raised by the Petition. On March 29, 2006, the Board issued an order staying the proceedings in this matter until July 3, 2006. On June 5, 2006, the Region moved for an additional 45-day stay of proceedings so that the Region could complete consultation with the Services under Section 7(a)(2) of the Endangered Species Act, and submit for public comment, receive public comment on, and issue a permit modification. On June 7, 2006, the Board issued an order staying the proceedings until August 17, 2006, and requiring the Region to submit a status report on August 3, 2006.

STATUS REPORT

The Region and Petitioners has successfully resolved the issues raised by the petition through a permit modification. On June 20, 2006, the Region submitted for public notice a draft permit modification. The comment period closed on July 19, 2006, and no comments were received. In parallel, the Region’s consultations with the Services concluded without objections from the Services to the Region’s determinations under Section 7(a)(2) of the Endangered Species Act. Before August 17, 2006, the Region will issue a final permit modification resolving the issues raised by the petition.

REQUESTED RELIEF

The Region does not request any relief at this time. Rather, the Region requests that, upon receipt of the Petitioners' forthcoming motion to voluntarily dismiss the petition, the Board grant that motion and dismiss the petition in its entirety.

The Region represents that its undersigned counsel has discussed this motion with Petitioners' counsel, and that Petitioners concur in this status report and intend to file, as described above, a motion to voluntarily dismiss the petition in its entirety.

Respectfully submitted,



Ronald A. Fein, Assistant Regional Counsel
U.S. Environmental Protection Agency Region 1
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114
617-918-1040
Fax: 617-918-0040

Date: August 3, 2006

In re: Boston & Maine Corporation (East Deerfield, Massachusetts)
NPDES Appeal No. 05-17

CERTIFICATE OF SERVICE

I, Sally Burt, hereby certify that copies of the foregoing Status Report were sent by both facsimile and first class mail on this 3rd day of August 2006 to the following persons:

Copy by facsimile
Original and five copies by first class mail

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Dated: August 3, 2006


