

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

In re:)	
)	
UPPER BLACKSTONE WATER)	NPDES Appeal Nos. 08-11, 08-12, 08-13,
POLLUTION ABATEMENT DISTRICT,)	08-14, 08-15, 08-16, 08-17 and 08-18
MILLBURY, MASSACHUSETTS)	
)	
NPDES Permit No. MA0102369)	
)	

**MOTION OF THE PERMITTEE,
FOR LEAVE TO REPLY TO
REGION 1'S MEMORANDUM IN OPPOSITION TO PETITIONS FOR REVIEW,
THE AMICUS CURIAE BRIEF AND OTHER PETITIONS FOR REVIEW**

Upper Blackstone Water Pollution Abatement District (the "Permittee"), requests leave to submit to the Environmental Appeals Board (the "Board") a reply to Region 1's Memorandum in Opposition to Petitions for Review, as well as to the amicus curiae brief submitted by the Rhode Island Department of Environmental Management ("RIDEM") and to those other petitions for review of the NPDES permit issued to the Permittee. While much of Region 1's voluminous response does not require additional briefing by the Permittee, a brief reply will facilitate the Board's deliberation in the following respects:

1. Permittee should be allowed to respond to substantive matters raised by other Petitioners and/or by RIDEM. This is especially true where: a) many petitions were filed roughly concurrent with the Permittee's petition and b) the Region's Memorandum in Opposition addresses issues raised by other petitioners which the Permittee had not previously

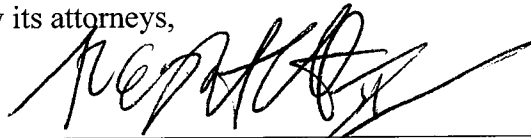
addressed in its petition, and where the arguments presented by other Petitioners and/or RIDEM are cited as the basis for decisions affecting the requirements imposed upon the Permittee. Emblematic of this is Region 1's statement in footnote 1 that, in response to allegations in NPDES Appeal No. 08-14 filed by the Northern Rhode Island Chapter 737 of Trout Unlimited, the Region intends to "propose a modification to the permit to incorporate an effluent limit for total aluminum and associated monitoring requirements."

2. To the extent that the Region contends that issues raised in the Permittee's Petition for Review should be excluded as untimely or as a "red herring", the Permittee should be afforded the opportunity to respond to these assertions. Likewise, where the Region and others have attributed the Permittee's arguments for changes to the permit to untoward motives, the Permittee should be given the opportunity to respond to those accusations.
3. A brief reply will also allow the Permittee to correct misstatements of fact and law by Region 1, RIDEM and other Petitioners. It will also allow the Permittee to address mischaracterizations of the arguments presented in its Petition for Review.

This motion is timely, in that the Permittee first received the Region's Memorandum on December 22, 2008. Nonetheless, the Permittee's request for leave to reply is not merely a automatic response, but rather one reflecting the significance of the mischaracterizations, misstatements and new issues incorporated in the Region's Memorandum. The Permittee

believes that a short reply would assist the Board in clarifying these matters and in honing in on the key issues in contention in all eight appeals. It proposes to file this reply not later than thirty days after an order from the Board allowing such reply.

Respectfully submitted,
UPPER BLACKSTONE WATER
POLLUTION ABATEMENT DISTRICT
By its attorneys,



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