



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

VIA 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

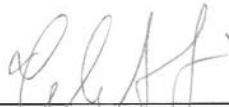
Re: NPDES Appeal No. 09-18
NPDES Permit No. NH0100595
Town of Jaffrey, NH Public Works Department (Jaffrey, New Hampshire)

May 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.

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 two months to July 23, 2010, to allow the parties to finalize and implement a settlement.

BACKGROUND

This is an appeal of NPDES Permit No. NH0100595 (“Permit”), which the Region reissued to Petitioner on September 28, 2009. On December 8, 2009, the Board issued a stay of proceedings for the parties to explore settlement negotiations, and stayed the appeal until March 24, 2010. On March 15, 2010, the Board extended the stay to May 24, 2010, and ordered that a status report be filed 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.

STATUS REPORT


The parties have made substantial progress since the Board’s most recent order and are close to reaching agreement on all issues. Specifically, the Petitioner and the Region have agreed that the Region will modify the Permit under 40 C.F.R. § 124.5 to revise certain effluent limits. The parties have also made substantial progress towards agreement on an administrative

compliance order that the Region would issue upon the Permit's finalization. While the parties have not yet reached complete agreement on the terms of such an order, they are confident that they will be able to do so in the very near future.


REQUESTED RELIEF AND GROUNDS FOR SUCH RELIEF

The parties jointly request that the Board extend the stay of proceedings by two months from May 24, 2010 to July 23, 2010. During this time, the parties expect to complete negotiations on an administrative compliance order. The Region also expects to prepare a permit modification under 40 C.F.R. § 124.5 (including a statement of basis under 40 C.F.R. § 124.7) and to conduct a 30-day public comment period as required by 40 C.F.R. § 124.10. The parties proposes to submit a status report by July 15, 2010, advising whether the Board should further extend the stay, establish a revised schedule for the litigation, or take other appropriate action.

An extension of this length is reasonable and necessary given the need to conduct the processes described above. 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 July 23, 2010.



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

 for

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

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 May 2010 to the following persons in the manner described below:


Original by first class mail
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 first class mail
Copy by e-mail

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

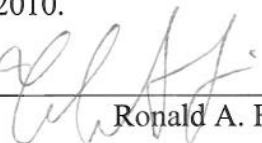
Signed: May 11, 2010



Ronald A. Fein

I certify that the foregoing Joint Status Report and Motion to Extend Stay are identical copies of the Joint Status Report and Motion to Extend Stay electronically filed in this case with the Environmental Appeals Board on May 11, 2010.

Signed: May 11, 2010



Ronald A. Fein