



Date:

JAN 04 2006

U.S. Environmental Protection Agency
 Office of Regional Counsel
 One Congress Street, Suite 1100
 Boston, MA 02114-2023
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 OFFICE OF REGIONAL COUNSEL
 U.S. ENVIRONMENTAL PROTECTION AGENCY
 BOSTON, MA 02114

PLEASE DELIVER TO:

Eurika Durr
Clerk, EPA Environmental Appeals Board
(202) 233-0121

From: Samir Bukhari
Attorney, Office of Regional Counsel
EPA, Region 1

Number of Pages to Follow: 6

Re: Status Report and Fourth Motion to Extend Stay of the Proceedings
City of Brockton, Brockton Advanced Water Reclamation Facility
NPDES Appeal No. 05-04
NPDES Permit No. MA0101010



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

U.S. EPA
JAN 04 2005

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VIA FAX AND EXPRESS MAIL

U.S. Environmental Protection Agency
Environmental Appeals Board
Attn: Eureka Durr, Clerk of the Board
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

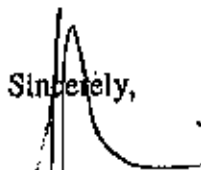
**Re: Status Report and Fourth Motion to Extend Stay of the Proceedings
City of Brockton, Brockton Advanced Water Reclamation Facility
NPDES Appeal No. 05-04
NPDES Permit No. MA0101010**

Dear Ms. Durr:

Enclosed is an original and five (5) copies of a Status Report and Fourth Motion to Extend Stay of the Proceedings in connection with NPDES Appeal No. 05-04.

If you should have any questions, please do not hesitate to contact me at 617-918-1095.

Sincerely,


Samir Bukhari
Attorney Advisor
Office of Regional Counsel
US EPA-Region 1

Enclosures

cc:

Timothy A. Watts
Douglas H. Watts
George Olson

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

05-04-05
10:11:45
1/10/06

In the Matter of:)	
)	
)	
Brockton Advanced Water)	NPDES Appeal No. 05-04
Reclamation Facility,)	
City of Brockton, Massachusetts)	
_____)	

STATUS REPORT AND FOURTH MOTION TO EXTEND STAY OF THE PROCEEDINGS

The New England Region of the Environmental Protection Agency ("EPA" or "Region") respectfully submits to the Environmental Appeals Board ("Board") this status report and motion to further extend the stay of the proceedings in the above-referenced appeal.

BACKGROUND

On May 11, 2005, EPA reissued a National Pollutant Discharge Elimination System Permit, No. MA0101010, to the City of Brockton ("Permittee") authorizing discharge of treated wastewater effluent from the Brockton Advanced Water Reclamation Facility ("Facility"). On June 9, 2005, Timothy Watts and Douglas Watts ("Petitioners") filed a petition for review by the Board contesting, *inter alia*, the permit's flow, chlorine and phosphorus limits ("Petition"). The Board directed the Region to submit a response by July 25, 2005 that addresses Petitioners' contentions and whether Petitioners have satisfied the requirements for obtaining review.

The Board has granted three successive stays of the proceedings by orders dated July 21, 2005, September 21, 2005 and October 24, 2005, respectively, to allow the parties to conclude settlement discussions. The Board's most recent order stayed the proceedings until January 9, 2006.

GROUND FOR STAY

The Region, the Petitioners and the Permittee are in the final stages of settlement discussions, and the Region continues to believe that there is a substantial likelihood of resolution of the issues raised in the Petition. Brockton has now agreed in principle to conduct a water quality monitoring program in the receiving waters following the completion of its contemplated Facility upgrade. The assessment will include chemical and biological sampling of approximately ten stations in locations upstream of the Brockton discharge to the confluence of the Matfield and Town Rivers, including all major tributaries. The parties have reviewed and exchanged drafts of language to memorialize Brockton's commitment to undertake the water quality assessment and to adopt an ultraviolet disinfection system. Negotiations are continuing over the nature of the comment and approval process for the scope of work for the assessment and the extent to which chlorine should be permitted following implementation of the UV disinfection system. Progress in reaching a final settlement has been slowed in part by the fact that the assessment is being implemented as a supplemental environmental project ("SEP") in a consent decree, which Brockton is entering in order to resolve an ongoing enforcement proceeding. The SEP has been subjected to multi-party review by agencies at the state and federal level, which has resulted in unanticipated delay. The Region's enforcement attorneys have indicated that negotiations over the consent decree

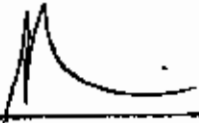
are nearing completion and that it is expected to be lodged in the federal district court within the next sixty (60) days.

In the interests of judicial economy and to conserve resources, the Region requests that these proceedings be stayed for an additional ninety (90) days in order to allow sufficient time (i) to conclude final discussions over the water quality assessment and disinfection system and (ii) to allow the consent decree to be lodged and entered. Absent a stay, the parties will be required to divert their time and effort from ongoing settlement discussions to proceedings before the Board. The current settlement discussions promise to resolve the pending petition as well as to deliver significant environmental benefits to the impacted waters. As soon as possible, but in no event later than ninety (90) days, the parties will submit a status report to advise the Board whether it is appropriate to continue the stay, dismiss the Petition, or establish a schedule for EPA's response to the Petition.

REQUESTED RELIEF

Accordingly, the Region requests that this matter be stayed for ninety (90) days to allow the parties to resolve the issue through settlement discussions.

Respectfully submitted,



U.S. Environmental Protection Agency,
New England Region

By its Attorney,
Samir Bukhari
Attorney Advisor
U.S. Environmental Protection Agency
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114-2023

617-918-1095
Fax 617-918-0095
bukhari.samir@epa.gov

Dated: December January 4, 2006

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Status Report and Fourth Motion to Extend Stay of the Proceedings in the matter of Brockton Advanced Water Reclamation Facility, NPDES Appeal No. 05-04, were sent to the following persons in the manner indicated:

By First Class U.S. Mail:

Timothy A. Watts
633 Wareham Street
Middleboro, Massachusetts 02346
Telephone: (508) 946-6191

Douglas H. Watts
38 Northern Avenue
Augusta, Maine 04330
Telephone: (207) 626-8178

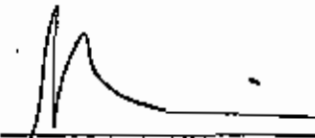
George E. Olson, Esq.
Edwards Angell Palmer and Dodge, LLP
111 Huntington Avenue
Boston, MA 02199-7613
Telephone: (617) 239-0100

By Facsimile and Federal Express:

U.S. Environmental Protection Agency
Environmental Appeals Board
Attn: Eureka Durr, Clerk of the Board
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Dated:

JAN 04 2006



Samir Bukhari, Attorney
EPA - Region 1
Office of Regional Counsel