



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**Region 1 – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912**

VIA ELECTRONIC FILING

December 11, 2017

Eureka Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, DC 20460-0001

**RE: Barnhardt Manufacturing Co.
NPDES Permit No. MA0003697; NPDES Appeal No. 17-07**

Dear Ms. Durr:

Please find EPA Region 1 and Barnhardt Manufacturing Company's First Joint Status Report, and accompanying Certificate of Service, in connection with NPDES Appeal No. 17-07.

Sincerely,

/s/ Joshua Secunda

Joshua Secunda
US Environmental Protection Agency
Office of Regional Counsel, Region 1
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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

_____)	
In the Matter of:)	
)	
Barnhardt Manufacturing Co.)	
)	NPDES Appeal No. 17-07
)	
NPDES Permit No. MA0003697)	
_____)	

FIRST JOINT STATUS REPORT

Region 1 of the United States Environmental Protection Agency (“Region”) and Barnhardt Manufacturing Co. (“Permittee”) hereby submit this status report on the progress of settlement discussions in the above-captioned matter.

BACKGROUND

On September 19, 2017, the Region reissued a National Pollutant Discharge Elimination System Permit No. MA0003697 (“NPDES Permit”) to the Permittee. On October 16, 2017, the Permittee timely filed a Petition for Review (“Petition”) with the Environmental Appeals Board (“Board”) requesting review of certain conditions of the Permit. In a letter dated October 19, 2017, the Board invited the parties to participate in its alternative dispute resolution (“ADR”) program to assist them in resolving the dispute, and to notify the Clerk of the Board of their decision on whether to participate no later than November 1, 2017. On November 1, 2017, the Permittee and the Region jointly moved to stay the proceedings for 90 days in order to allow the parties to try to resolve the issues on appeal via settlement negotiations and a permit modification, and

requested that the Board defer the deadline for responding to the Board's offer of ADR for the pendency of settlement discussions. On November 3, 2017, the Board issued an order staying the proceedings until February 1, 2018, and directed the parties to file a joint status report by December 11, 2017, informing the Board as to the progress the parties had made, as well as their plan and expected timeframe for concluding settlement discussions and dismissing the appeal; or alternatively, requesting that the Board lift the stay and establish a new deadline for the Region to file its response and certified index.

STATUS REPORT

Since the issuance of the stay, the Region has conferred with the Permittee, and the parties have reached an agreement in principal over the terms of a permit modification that will resolve the pending Petition. The Region has developed a draft of a permit modification and statement of basis that the Permittee is now reviewing. The Permittee expects to inform EPA on whether the draft modification is acceptable no later than close of business on December 15, 2017. Once agreement is reached on the terms of the draft modification, the parties will jointly move to dismiss the Petition. The parties believe agreement over the terms of a final settlement will likely be reached within the next thirty days.

In light of the substantial progress outlined above, and in the interests of judicial economy and to conserve resources, the parties request that these proceedings continue to be stayed in accordance with the terms of the Board's November 3, 2017 Order to facilitate a negotiated resolution of the issues in this case and dismissal of the Petition.

Respectfully submitted,

For US EPA Region 1:

/s/ Joshua Secunda

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For Barnhardt Manufacturing Co., Inc.:

/s/ Joshua Secunda for Gregory R. Morand

Gregory R. Morand
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Email: Info@OmniEG.com

Dated: December 11, 2017

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing First Joint Status Report, in connection with Barnhardt Manufacturing Company, NPDES Appeal No. 17-07, was sent to the following persons in the manner indicated:

By Electronic Filing:

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
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Via electronic mail, by agreement between the parties:

For Barnhardt Manufacturing Co., Inc.:

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Dated: December 11, 2017

/s/ Joshua Secunda

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