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ENVIR. APPEALS BOARD

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July 22, 2008

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, N.W., Suite 600
Washington, DC 20005

**Re: In re: City of Attleboro, MA Department of
Wastewater, Government Center,
77 Park Street, Attleboro, MA 02703
NPDES Permit No. MA 0100595
NPDES Appeal No. 08-09**

Dear Sir/Madam:

Enclosed for filing in the above matter is Permittee's Motion to Intervene and Request for Leave to Respond to the Petition.

Very truly yours,


Douglas H. Wilkins

DHW:skc
enclosure

cc: Susan B. Forcier, Esquire
Carl Dierker, Regional Counsel
Client

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ENVIR. APPEALS BOARD

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

NPDES APPEAL No. 08-09

_____)
In re:)
)
City of Attleboro, MA Department of)
Wastewater, Government Center,)
77 Park Street, Attleboro, MA 02703)
NPDES Permit No. MA0100595)
)
Petition of Rhode Island Department of Environ-)
Mental Management)
_____)

**PERMITTEE'S MOTION TO INTERVENE AND
REQUEST FOR LEAVE TO RESPOND TO THE PETITION**

The City of Attleboro ("Permittee," the "City" or "Attleboro") requests leave to intervene and to file a response to the Petition filed by the Rhode Island Department of Environmental Management on NPDES permit No. MA0100595 (the "Permit"), which was issued to the City on June 9, 2008 jointly by the Massachusetts Department of Environmental Protection ("MADEP") and U.S. Environmental Protection Agency, Region 1 ("Region 1").

Attleboro has a direct and substantial interest in the matters raised by RIDEM, which contends that certain Permit conditions issued to the City are based on (1) a finding of fact or conclusion of law which is erroneous, or (2) an exercise of discretion or an important policy consideration which MADEP should, in its discretion, review.

FACTUAL AND STATUTORY BACKGROUND

Attleboro operates a municipal wastewater treatment plant known as the City of Attleboro Water Pollution Control Facility at 27 Pond Street North in Attleboro ("Facility" or

“WWTP”). It has a National Pollutant Discharge Elimination System (“NPDES”) permit issued jointly by EPA and the Massachusetts Department of Environmental Protection (“MADEP”) on September 30, 1999. The NPDES permit, with limits and conditions, authorizes the City to discharge treated wastewater effluent from outfall 001 of the Facility to a receiving water named the Ten Mile River. The Ten Mile River then flows into Rhode Island and eventually empties into the Seekonk River, which is a marine water. The Seekonk River joins the Providence River, which discharges into the Narraganset Bay.

The City timely applied for renewal of the Permit. Region 1 of EPA (“Region 1”) and DEP jointly issued a proposed permit and fact sheet (Fact Sheet #1) on August 16, 2006 proposing limits under both the Federal Clean Water Act and the Massachusetts Clean Waters Act. The City, RIDEM and others submitted comments on the permit proposed in 2006. The proposed permit was amended in 2007 to reflect lower phosphorus limits requested by RIDEM. The City commented in 2007. RIDEM did not.


At no point did RIDEM propose a hardness level other than 100. Indeed, while RIDEM requested support for the 100 hardness level, RIDEM used that level in its own calculations. Now, RIDEM proposes a lower hardness level based upon data that it did not discuss at any stage below and upon some data that were not available for review or comment by Attleboro or anyone else. It does so for the purpose of asking EPA to impose lower metals limits on Attleboro than contained in the draft permits. This request would affect and impair Attleboro’s interests in its permit and in the integrity of the process.

RELIEF SOUGHT

The City requests that it be permitted to intervene in RIDEM’s appeal and that it be granted leave to respond to RIDEM’s appeal.

Respectfully submitted,

City of Attleboro, Department of Wastewater
By its attorney,



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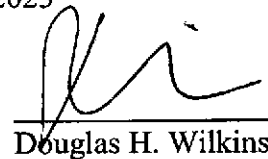
Date: July 22, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the
above document on all counsel of record by first class mail,
postage prepaid, as follows:

Susan B. Forcier, Esquire
Department of Environmental Management
Office of Legal Services
235 Promenade Street, 4th Floor
Providence, RI 02908-5767

Carl Dierker, Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 1
1 Congress Street, Suite 1100
Boston, MA 02114-2023



Douglas H. Wilkins

July 22, 2008