



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

August 5, 2009

Via First Class U.S. Mail and Electronic Submission

U.S. Environmental Protection Agency
Eurika Durr, Clerk of the Board
Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

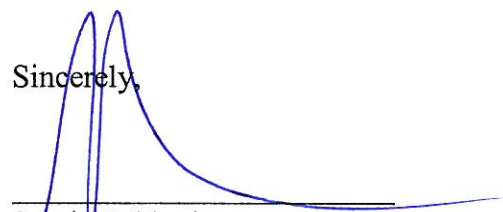
Re: *In re: ExxonMobil Oil Corporation*, NPDES Permit No. MA0000833, Appeal
No. NPDES 08-23

Dear Ms. Durr:

Please find enclosed for docketing an original copy of a Notice of Withdrawal of
Contested Conditions in connection with the above-referenced permit appeal.

Thank you for your attention to this matter.

Sincerely,



Samir Bukhari
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA - Region 1
1 Congress Street, Suite 1100 (RAA)
Boston, MA 02114-2023
Tel: (617) 918-1095
Fax: (617) 918-0095

cc: Recipients Listed on Certificate of Service

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VIA FIRST CLASS MAIL AND ELECTRONIC SUBMISSION

Ms. Eureka Durr
Clerk of the Board
U.S. EPA Environmental Appeals Board
(MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Mr. Arthur Powers
Terminal Supervisor
ExxonMobil Pipeline Company
52 Beacham Street
Everett, Massachusetts 02149

**Re: ExxonMobil Oil Corporation
Notice of Withdrawal of Contested Conditions
NPDES Appeal No. 08-23
NPDES Permit No. MA0000833**

Dear Ms. Durr and Mr. Powers:

The ExxonMobil Oil Corporation ("ExxonMobil") timely petitioned the U.S. Environmental Protection Agency Environmental Appeals Board ("Board") for review of NPDES Permit No. MA0000833 ("Permit"), on October 29, 2008. The Permit had been issued by the New England Regional Office of the U.S. EPA ("Region") on September 29, 2008. The Region placed the uncontested and severable portions of the Permit into effect on January 1, 2009. *See* Attachment 1 (Notice of Uncontested and Severable Conditions, dated November 20, 2008) ("Notice"). In accordance with NPDES regulations, all other conditions of the Permit were stayed for the pendency of the appeal.

Federal regulations governing the NPDES permitting program give EPA regional offices an absolute right to withdraw portions or all of a permit at any time prior to the Board's rendering of a decision on a permit appeal. *See* 40 C.F.R. § 124.19(d); *In re Wash. Aqueduct Water Treatment Plant*, NPDES Appeal No. 03-07, slip op. at 2 (EAB, Dec. 15, 2003). This authority includes the discretion to withdraw portions of a permit without withdrawing the permit in its entirety. *See* 40 C.F.R. § 124.19(d) (Region may, after issuing a withdrawal notification, prepare a new draft permit "addressing the portions so withdrawn"); Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two, 61 Fed. Reg. 65,268, 65,281 (Dec. 11, 1996) ("EPA therefore proposes to clarify that the Regional Administrator may withdraw and

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reissue any NPDES...permit (or a contested condition thereof) prior to a decision of the EAB to grant or deny review under § 124.19(c).”). Section 124.19(d) specifies further that, once the permit or portions thereof are withdrawn, the Regional Administrator must “prepare a new draft permit under § 124.6 addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part.”

Following receipt of ExxonMobil’s petition, the parties jointly moved the Board to stay the proceedings in order to allow the parties to explore the viability of settlement. The parties have successfully settled their dispute. As the Board has not rendered a decision to grant or deny review of the Permit, the Region is authorized to act under 40 C.F.R. § 124.19(d) and is hereby withdrawing the “Contested Conditions,” as such term is defined in the Notice. In addition, ExxonMobil has agreed to promptly withdraw its petition for review. To implement the settlement, the Region will propose modified conditions for public review and comment in accordance with applicable NPDES procedural regulations. With respect to each of the Contested Conditions, the corresponding term, if any, in ExxonMobil’s prior permit issued by EPA on March 6, 2000, shall remain in effect until superseded by final and effective modified permit conditions.

If you have any questions regarding this notice, please feel free to contact Samir Bukhari, the Region’s legal counsel in this matter, at 617-918-1095, or Ellen Weitzler, in our Office of Ecosystem Protection, at 617-918-1582.

Sincerely,



Ira W. Leighton
Acting Regional Administrator

cc:

Dianne R. Phillips, Esq., Holland and Knight LLP
David Webster, EPA
Ellen Weitzler, EPA
Denny Dart, EPA
Paul Hogan, MassDEP

Attachment 1



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

VIA FEDERAL EXPRESS AND ELECTRONIC SUBMISSION

November 20, 2008

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

Mr. Arthur Powers
Terminal Supervisor
ExxonMobil Pipeline Company
52 Beacham Street
Everett, Massachusetts 02149

**Re: ExxonMobil Oil Corporation
Notice of Uncontested and Severable Conditions
NPDES Appeal No. 08-23
NPDES Permit No. MA0000833**

Dear Ms. Durr and Mr. Powers:

The ExxonMobil Oil Corporation ("ExxonMobil") timely petitioned the U.S. Environmental Protection Agency Environmental Appeals Board ("Board") for review of NPDES Permit No. MA0000833 ("Permit"), on October 29, 2008. The Permit was issued by the New England Regional Office of the U.S. EPA ("Region") on September 29, 2008.

Pursuant to 40 C.F.R. § 124.19, ExxonMobil seeks review of the following permit requirements:

Part	Permit Term
Part I.A.1	Outfall 001B elimination
Part I.A.14	Peak flow
Part I.A.21	Certification and flow control
Part I.A.14 and 21	Flow and operational restrictions
Part I.A.14 and 21	10 year, 24-hour storm
Part I.A.1, Oil and Grease	5 mg/l
Part I.A.1, Benzene	5 µg/l

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Part I.A.1, BTEX	100 µg/l
Part I.A.1, Methyl Tertiary-Butyl Ether	70 µg/l
Part I.A.18	Compliance/noncompliance for Polycyclic Aromatic Hydrocarbons (PAHs)
Part I.A.1, footnote 9	Monthly metals and hardness monitoring
Part I.A.1	Hardness, total solids, calcium, and magnesium sampling
Part I.A.1, footnote 1	Heated purge requirement
Part I.A.1, footnote 1	Ethanol analytical method
Part I.A.1, footnote 8	WET testing
Part I.A.17	Notification
Part I.A.23.f	Notification
Part I.B.4.e	Manage salt

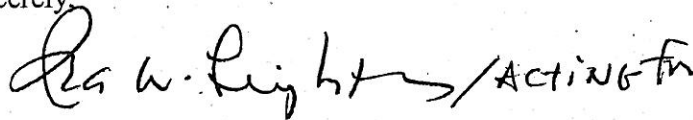
The foregoing requirements are referred to as the "Contested Conditions," and all other conditions of the Permit are referred to as "Uncontested Conditions."

Pursuant to 40 C.F.R. §§ 124.16(a) and 124.60(b), I hereby notify you of my determination that the Contested Conditions are stayed during the pendency of this appeal and until final agency action under 40 C.F.R. § 124.19(f). With respect to each of the Contested Conditions, the corresponding term in ExxonMobil's prior permit issued March 6, 2000, including paragraph I.A.2 of that permit, shall remain in effect.

I further notify you of my determination that the Uncontested Conditions of the Permit are severable from the Contested Conditions, with the exception of the ethanol reporting requirement set forth in Part I.A.1 of the Permit and the inspection, operation and maintenance requirements set forth in Part I.A.11 of the Permit. The uncontested and severable conditions of the Permit shall become fully effective enforceable obligations on January 1, 2009.

If you have any questions regarding this notice, please feel free to contact Samir Bukhari, the Region's legal counsel in this matter, at 617-918-1095, or Ellen Weitzler, in our Office of Ecosystem Protection, at 617-918-1582.

Sincerely,



Robert W. Varney
Regional Administrator

cc: Dianne R. Philips, Esq. (Holland & Knight)
Cynthia Liebman, Esq. (Conservation Law Foundation)
Minka Van Beuzekom (Mystic River Watershed Association)