

VERMONT LAW SCHOOL



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VIA U.S. MAIL AND ELECTRONIC SUBMISSION

January 14th, 2009

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

**Re: Upper Blackstone Water Pollution Abatement District
Petitioner Conservation Law Foundation's Opposition to Upper Blackstone
Water Pollution District's Motion for Leave to File a Reply Brief
NPDES Appeal Nos. 08-11, 08-12, 08-13, 08-14, 08-15, 08-16, 08-17, and 08-18
NPDES Permit No. MA 0102369**

Dear Ms. Durr:

In connection with the above-reference permit appeals, please find enclosed for docketing and review one original and one copy of Conservation Law Foundation's Opposition to Upper Blackstone Water Pollution District's Motion for Leave to File a Reply Brief.

If you have any questions, please call me at 802-831-1627.

Sincerely,

David K. Mears, Esq.

Enclosures

cc: Recipients listed on enclosed certificate of service

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EPA'S BOARD

**Environmental Appeals Board
United States Environmental Protection Agency
Washington, D.C.**

In re:)	
)	
Upper Blackstone)	
Water Pollution Abatement District)	NPDES Appeal Nos. 08-11, 08-12,
NPDES Permit No. MA 0102369)	08-13, 08-14, 08-15, 08-16, 08-17,
)	and 08-18
)	

**PETITIONER CONSERVATION LAW FOUNDATION'S OPPOSITION TO
UPPER BLACKSTONE WATER POLLUTION DISTRICT'S MOTION FOR
LEAVE TO FILE A REPLY BRIEF**

Introduction

Conservation Law Foundation ("CLF") moves the Environmental Appeals Board (the "Board") to deny the Upper Blackstone Water Pollution Abatement District's (the "District") motion for leave to reply. Alternatively, if the Board should decide to grant the District's motion, CLF moves the Board for Leave to submit a reply to Region 1's memorandum in opposition to petitions for review and to the other petitions for review of the NPDES permit issued to the District.

The rules governing petitions for review of an NPDES permit to the Board are contained in Title 40 C.F.R. pt. 124. Although the rules do not make any specific provision concerning motions for Leave to File a Reply, under Environmental Appeals Board Practice Manual Section III D(5), a petitioner may request leave to file a reply to the permitting authority's response to a petition for review prior to the EAB's decision to grant or deny review. Granting leave to reply is within the discretion of this Board.

Argument

I. The District's Motion For Leave To File A Reply Brief Should Be Denied.

The District's motion is unwarranted and should be denied based on the vagueness of its general arguments and the unlikelihood that its reply would aid the Board any further in reaching a decision in this matter. Furthermore, in light of the fact that the District already received extra time to review and respond to the petitions submitted by the other parties while preparing their supplemental petition for review, more time to file another substantive pleading is unnecessary. Therefore, the Board should deny the District's motion.

II. In The Alternative, CLF Should Be Allowed Leave To File A Reply Brief.

If the Board determines that a reply brief should be allowed, CLF too requests the opportunity to submit a short reply in order to correct references to the record and law, or to clarify the basis of CLF's petition in response to arguments raised in Region 1's memorandum in opposition to petitions for review and in the District's petition for review as related to the proposed nitrogen and phosphorus limits.

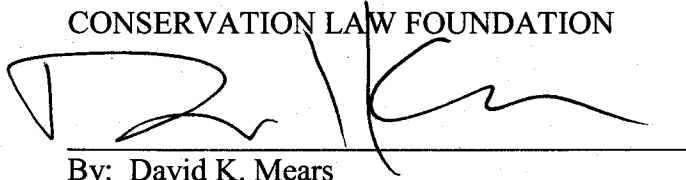
Conclusion

For reasons identified herein, Petitioner respectfully requests that the District's motion for leave to file a reply be denied or, in the alternative, if the District's motion is granted, that CLF be permitted to file its own reply.

Dated at South Royalton, Vermont on this 14th day of January, 2009

Respectfully Submitted,

CONSERVATION LAW FOUNDATION



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion in Opposition to Upper Blackstone Water Pollution District's Motion for Leave to File a Reply Brief in connection with NPDES Appeal Nos. 08-11, 08-12, 08-13, 08-14, 08-15, 08-16, 08-17, and 08-18 were sent to the following individuals in the manner indicated:

By First Class U.S. Mail:

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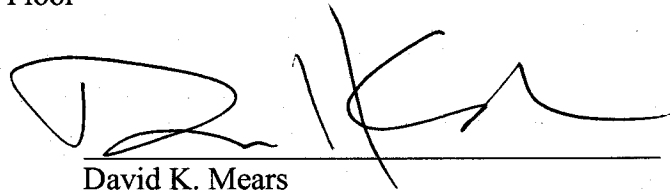
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Dated: January 14th, 2009



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