



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA ELECTRONIC FILING

August, 13, 2018

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

RE: In re: Massachusetts Bay Transportation Permit Authority, Keolis Commuter Services, LLC, and Delaware North Corporation; NPDES Permit No. MA0028941

Dear Ms. Durr:

Please find the attached Joint Motion to Stay the Proceedings and accompanying Certificate of Service, regarding NPDES Appeal No. 18-03.

Thank you for your assistance.

Sincerely,

/s/ Joshua Secunda
Joshua Secunda
US EPA – Region 1
Office of Regional Counsel
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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

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| _____ |) | |
| In re: |) | |
| KEOLIS COMMUTER SERVICES, LLC, |) | NPDES Appeal No. 18-03 |
| North Station Railroad Terminal |) | |
| |) | |
| NPDES Permit No. MA0028941 |) | |
| _____ |) | |

JOINT MOTION TO STAY THE PROCEEDINGS

Region 1 of the United States Environmental Protection Agency (“Region”) and Keolis Commuter Services, LLC (“Keolis”) respectfully request that the Environmental Appeals Board (“EAB” or “Board”) stay the above-captioned matter for 90 days to provide the parties time to undertake settlement negotiations. The basis for the motion is discussed below.

REQUESTED RELIEF AND GROUNDS FOR SUCH RELIEF

On June 15, 2018, the Region and the Massachusetts Department of Environmental Protection (“MassDEP”) jointly issued National Pollutant Discharge Elimination System Permit No. MA0028941 (“NPDES Permit”) to Keolis. On July 18, 2018, Keolis filed a Petition for Review (“Petition”) with the Board requesting review of one (1) condition of the NPDES Permit. Counsel for the parties have conferred and have concluded that a negotiated resolution of the issue raised in the Petition is possible and have agreed to enter into settlement discussions. The parties expect that resolution of this permit is most amenable to direct negotiations and, thus, respectfully decline the opportunity to participate in the EAB-sponsored Alternative Dispute Resolution (“ADR”) program at this time. If negotiations prove unsuccessful, however, the parties may wish to accept the Board’s offer at a later date, if possible. Accordingly, the Region and Keolis

respectfully request that the Board stay the proceedings for 90 days, with a briefing schedule on the merits of the appeal to be set upon the expiration of the stay. During the stay, the parties would update the Board via two status reports describing the progress of negotiations and, in the case of the second report, advising the Board whether it would be appropriate to continue the stay to allow further settlement negotiations, to assign an EAB Settlement Judge pursuant to the Board's ADR program, to dismiss the Petition, or to allow the stay to expire and set a briefing schedule.

CONCLUSION

For these reasons, and to conserve administrative and judicial resources, the parties respectfully request that the Board issue an order that: (1) stays the proceedings for 90 days, with two status reports due to the Board at regular intervals; and (2) delays setting a briefing schedule on the merits of the appeal until the stay expires.

Dated: August 13, 2018

Respectfully submitted,

U.S. EPA – Region 1

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Keolis Commuter Services, LLC

/s/ Joshua Secunda for Eric L. Klein, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Motion to Stay the Proceedings, regarding *In re: Keolis Commuter Services, LLC* was sent to the following persons in the manner indicated:

By Electronic Filing:

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
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Dated: August 13, 2018
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