

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

_____)	
In the Matter of:)	
)	
City of Cambridge, DPW)	NPDES Appeal No. 09-17
Combined Sewer Overflows)	
)	
NPDES Permit No. MA 0101974)	
)	
_____)	

**REGION 1'S ASSENTED TO MOTION
TO STAY THE PROCEEDINGS**

The United States Environmental Protection Agency, Region 1 (“the Region”) moves the Environmental Appeals Board (“the Board”) to stay the proceedings related to the petition for review filed by Stephen H. Kaiser (“the Petitioner”) in the above-referenced appeal for sixty days, until February 22, 2010. The bases for this motion are discussed below. The Petitioner and counsel for the City of Cambridge (“the City”) have assented to this motion.

On September 30, 2009, the Region reissued a National Pollutant Discharge Elimination System (“NPDES”) Permit, No. MA 0101974 (“the Permit”), to the City of Cambridge, Department of Public Works authorizing combined sewer overflow (“CSO”) discharges into the Alewife Brook and Charles River. On November 3, 2009, Stephen H. Kaiser filed a petition for review with the Board, contesting the Permit’s alleged failure to sufficiently limit CSO inflow from Alewife Brook floodwaters. By letter dated November 6, 2009, the Board directed the Region to file its response to the above-

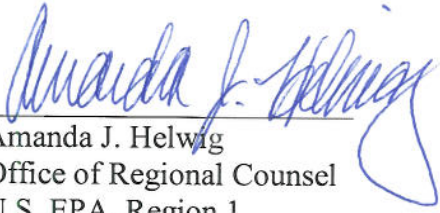
referenced petition by December 22, 2009. On December 3, 2009, the City of Cambridge moved to intervene as a party respondent in this matter. By Order dated December 9, 2009, the Board granted the City's motion and directed the City to file its response by December 22, 2009.

The Region and the Petitioner plan to engage in settlement negotiations in an effort to narrow or resolve some or all of the issues on appeal. Settlement of any components of this appeal will simplify or resolve the issues before the Board, thus conserving the Board's resources. The City assents to this motion based on several logistical factors that also support a stay in this matter.¹ Accordingly, the Region, with consent of the Petitioner and counsel for the City, requests that the Board stay these proceedings for sixty (60) days, until February 22, 2010. On or as soon as possible before that date, the parties will submit a status report to advise the Board whether it is appropriate to continue the stay, dismiss the petition, or establish a schedule for the Region's and the City's responses to the petition.

¹ These factors include the fact that (1) the Region has no record of receiving notification of this appeal from the Board, and only learned of the appeal in late November 2009 through looking at the Board's website in an unrelated matter; (2) beginning the week of November 23, 2009 and continuing through the week of December 7, 2009, the Region has been in the process of moving offices, which has resulted in some disruption in workflow and also led to the separation of the legal and technical staff assigned to this matter for two weeks, causing some delay in coordination on this appeal; and (3) the Region's staff faces further difficulties in coordination based on scheduling issues associated with the upcoming holidays.

Respectfully submitted by EPA-Region 1,

Dated: December 16, 2009


Amanda J. Helwig
Office of Regional Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912
Tel: (617) 918-1180
Fax: (617) 918-0180
helwig.amanda@epa.gov