



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

ONE CONGRESS STREET SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

RECEIVED
U.S. EPA.

DEC 12 PM 4:37

ENV. APPEALS BOARD

VIA FIRST CLASS MAIL

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

Re: NPDES Appeal No. 08-26
NPDES Permit No. MA0039853
Town of Wayland Wastewater Management District Commission

and NPDES Appeal No. 08-27
NPDES Permit No. MA0039853
Town of Wayland Wastewater Management District Commission

December 10, 2008

Dear Ms. Durr,

Enclosed please find the original and five copies of the parties' Joint Motion to Consolidate Appeals, to Stay Proceedings, and to Include Supplemental Material in the Record.

Sincerely,

A handwritten signature in black ink, appearing to be "M" followed by a stylized flourish.

Ronald A. Fein, Assistant Regional Counsel
Jeffrey Fowley, Assistant Regional Counsel
U.S. Environmental Protection Agency Region I
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114
617-918-1040
Fax: 617-918-0040

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

In re: Town of Wayland Wastewater Management) District Commission) NPDES Permit No. MA0039853)	NPDES Appeal No. 08-26 and NPDES Appeal No. 08-27
---------------------------------------------------------------------------------------------------------	---------------------------------------------------------

RECEIVED
ENVIRONMENTAL APPEALS BOARD
NOV 12 10 16 28

**JOINT MOTION TO CONSOLIDATE APPEALS, STAY PROCEEDINGS AND
INCLUDE SUPPLEMENTAL MATERIAL IN THE RECORD**

Region I of the U. S. Environmental Protection Agency (the Respondent), Thomas Arnold (the Petitioner in NPDES Appeal No. 08-26) and the U.S. Department of the Interior (the Petitioner in NPDES Appeal No. 08-27) respectfully request that the Environmental Appeals Board (“Board”) consolidate these two appeals, stay the proceedings until May 8, 2009 to allow the parties to undertake settlement negotiations, and include in the record certain supplemental material submitted by petitioner Arnold.

BACKGROUND

The Region reissued NPDES Permit No. MA0039853 (“Permit”) to the Town of Wayland Wastewater Management District Commission on September 30, 2008. Mr. Arnold filed an Initial Petition for Review dated November 17, 2008 contesting certain conditions of the Permit. Mr. Arnold also filed a supplemental Petition for Review dated November 27, 2008 also contesting certain conditions of the Permit. The U.S. Department of the Interior in turn filed a Petition for Review dated November 14, 2008 contesting certain conditions of the Permit. By letter dated November 25, 2008, the Board directed

the Region to prepare a response addressing Petitioner Arnold's contentions (as set forth in his Initial Petition for Review) by January 8, 2009. Also by letter dated November 25, 2008, the Board directed the Region to prepare a response addressing Petitioner U.S. Department of the Interior's contentions by January 8, 2009.

REQUESTED RELIEF AND GROUNDS FOR SUCH RELIEF

Since the two petitions address the same permit and raise many similar issues, the parties agree that it would be most efficient to address them together. Accordingly, the parties jointly ask that the Board consolidate these two appeals.

The parties also believe that resolution of these appeals may be possible, and have agreed to enter into settlement discussions. The parties further agree that the issues to be discussed are sufficiently complex that they should be given until May 8, 2009 to focus on the settlement negotiations. In particular, this will allow time for the parties to assess the history of point and non-point source controls related to this permit, and will take account of the added complexity due to one of the appeals being filed by another federal agency. Accordingly, the parties jointly request that the Board stay proceedings with respect to both appeals until May 8, 2009. The parties should be directed to file a Status Report on whether these appeals have been settled by that time. To enable the parties to focus on the settlement negotiations, the parties further request that the Board rescind its orders to the Region to submit responses to the Petitions by January 8, 2009. If the parties report on May 8, 2009 that this matter has not been settled, the Board should set a new deadline for the Region to submit its responses at that time.

Finally, while the parties agree that the Initial Petition for Review by Thomas Arnold, and the Petition for Review by the U.S. Department of the Interior, were both timely filed with the Board, there has been a dispute between the Region and Mr. Arnold about whether the supplemental Petition for Review by Mr. Arnold was timely filed with the Board. See Initial Petition for Review by Thomas Arnold, pages 2 – 3. Without conceding that the supplemental Petition was timely filed, the Region agrees that in the particular circumstances of this case there was possible confusion about whether Mr. Arnold had in effect been granted an extension by the Region to file his appeal beyond the usual time called for by the regulations, namely until 30 days after he picked up his mail, i.e., possibly to as late as December 1, 2008 (Mr. Arnold's position), or had only been allowed 30 days after the mail was available to him through an attempted delivery (the Region's view and intention). Due to the possible confusion, the Region joins with the Petitioners in asking that the Board include the supplemental Petition for Review by Mr. Arnold dated November 27, 2008 in the Record (including the document as received by

the Board on December 1, 2008 and certain corrected pages as received by the Board by December 5, 2008). The supplemental Petition for Review should be considered together with Mr. Arnold's Initial Petition for Review as constituting a single permit appeal.

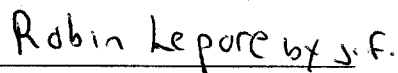
Respectfully submitted,



Ronald A. Fein, Assistant Regional Counsel
Jeffrey Fowley, Assistant Regional Counsel
U.S. Environmental Protection Agency,
Region 1
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114
617-918-1040
Date: December 10, 2008



Deidre C. Menoyo
Attorney at Law
388 Willis Road
Sudbury, MA 01776
[Counsel for Petitioner Arnold]
978-440-9690
Date: December 10, 2008



Robin Lepore, Staff Attorney
Office of the Regional Solicitor
Department of Interior
One Gateway Center, Suite 612
Newton, MA 02458
Tel: 617-527-3400
Date: December 10, 2008

CERTIFICATE OF SERVICE

I, Jeffry Fowley, hereby certify that copies of the foregoing Joint Motion to Consolidate Appeals, Stay Proceedings and include Supplemental Material in the Record were sent on the 10th day of December 2008 to the following persons in the manner described below:

Original and five copies by first class mail

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

Copy by first class mail

Deidre C. Menoyo
Attorney at Law
388 Willis Road
Sudbury, MA 01776

Copy by first class mail

Robin Lepore, Staff Attorney
Office of the Regional Solicitor
Department of Interior
One Gateway Center, Suite 612
Newton, MA 02458

Signed: December 10, 2008

