



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
Five Post Office Square, Suite 100
Boston, MA 02109-3912

RECEIVED
U.S. E.P.A.

DEC 28 2009
ENVIR. APPEALS BOARD

DEC 28 2009

VIA CERTIFIED MAIL

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

Lisa Peterson, Commissioner
City of Cambridge
Department of Public Works
147 Hampshire Street
Cambridge, MA 02139

**RE: Notice of Contested and Uncontested Conditions
NPDES Permit No. MA0101974
City of Cambridge, Department of Public Works
NPDES Appeal No. 09-17**

Dear Ms. Durr and Ms. Peterson:

On November 3, 2009, Stephen H. Kaiser, PhD, filed a petition for review of NPDES Permit No. MA0101974 ("Permit") with the Environmental Appeals Board ("Board"), pursuant to 40 CFR § 124.19(a). The U.S. Environmental Protection Agency, Region 1, had reissued the Permit to the City of Cambridge, Department of Public Works on September 30, 2009. The Permit superseded the permit issued by the Region on March 26, 1993. On December 3, 2009, the City of Cambridge ("City") moved to intervene as a party respondent in this matter. By Order dated December 9, 2009, the Board granted the City's motion.

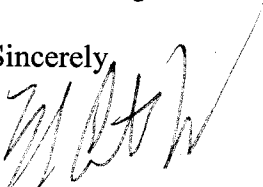
In his petition, Mr. Kaiser contests the Region's alleged failure to sufficiently limit combined sewer overflow ("CSO") inflow from Alewife Brook floodwaters in the Permit. Pursuant to 40 CFR §§ 124.16(a)(2)(ii) and 124.60(b), contested permit conditions, and uncontested conditions that are not severable from contested conditions,

are stayed upon the filing of a petition for review until final agency action under 40 CFR § 124.19(f). In this case, I find that none of the conditions in the Permit are contested. Rather, Mr. Kaiser is contesting the absence of conditions related to CSO inflow and flood levels in Alewife Brook.

All conditions of the Permit are uncontested and severable from the issues raised in Mr. Kaiser's petition for review. Therefore, none of the conditions are stayed, and all will become fully effective, enforceable obligations of the Permit on February 1, 2010, pursuant to 40 CFR § 124.16(a)(2)(i).

If you have any questions regarding this correspondence, please feel free to contact Amanda Helwig, the Region's legal counsel in this matter, at (617) 918-1180, or Brian Pitt, the Region's Manager of the Municipal Permits Branch, at (617) 918-1875.

Sincerely,



H. Curtis Spalding
Regional Administrator

cc: Stephen H. Kaiser, PhD.
Hetal Dhagat, Esq., Anderson & Kreiger
Amanda J. Helwig, Esq., U.S. EPA
Brian Pitt, U.S. EPA
Denny Dart, U.S. EPA