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February 25, 2013

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board 1103M
1200 Pennsylvania Avenue, N.W.
East Building
Washington, D.C. 20460-0001

Re: Town of Newmarket Wastewater Treatment Plant
Permit Number: NH0100196
Appeal Number: NPDES 12-05

Dear Ms. Durr,

On February 7, 2013, Conservation Law Foundation, Town of Newington, and New Hampshire Audubon (“CLF”) submitted a motion for leave to intervene or, in the alternative, participate as non-party amici (“Motion to Intervene”). The Environmental Appeals Board (“EAB” or the “Board”) denied the motion to intervene and granted the motion to participate “by filing a non-party amicus brief.” *See* EAB Order dated February 11, 2013 at 2. The Board’s Order notwithstanding, on February 21, 2013, CLF submitted an “Amici Filing” in Opposition to Petitioners’ Motion to Suspend Briefing Schedule and to Amend Briefing Schedule and Page Limit (“Amici Filing”). However, as a non-party amici, CLF does not have the authority to submit responses (or motions) for the Board’s consideration.

As CLF is aware, the Board denied CLF’s Motion to Intervene. CLF acknowledged that participation as an intervenor would have allowed them to file a “response brief and any other briefs warranted by the Environmental Appeals Board’s briefing schedule, and to participate in any oral arguments schedule in this matter.” Motion to Intervene at 1. The non-party amici status granted to CLF simply means the Board may review its amicus brief on the merits, not that CLF may respond to every motion or brief submitted by the parties. Therefore, Petitioners request the Board only review CLF’s amicus brief on the merits and strike the other amici filings submitted by CLF in this proceeding. Additionally, Petitioners request the Board issue an order directing CLF to stop submitting documents in response to the parties’ filings in this case.

Thank you for your consideration in this matter and we look forward to your response.

Respectfully submitted



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CERTIFICATION OF SERVICE

I hereby certify the copies the Petitioner's Letter to the Board regarding Conservation Law Foundation, Town of Newington, and Audubon Society of New Hampshire's amici filings in connection with NPDES Appeal No. 12-05, were sent to the following persons in the manner indicated:

By Electronic Filing:

Clerk of the Board
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Environmental Appeals Board 1103M
1200 Pennsylvania Avenue, N.W.
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Washington, D.C. 20460-0001

By E-mail:

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Date: 2/25/13