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August 28, 2013

Via Electronic Filing

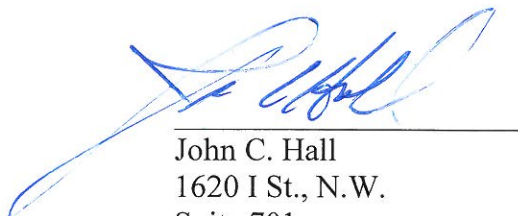
U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board 1103M
1200 Pennsylvania Avenue, N.W.
East Building
Washington, D.C. 20460-0001

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

Dear Ms. Durr,

Please find the Petitioners' Motion to Dismiss the Petition for Review of the Town of Newmarket NPDES permit, and accompanying Certificate of Service regarding NPDES Appeal No. 12-05.

Sincerely,



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

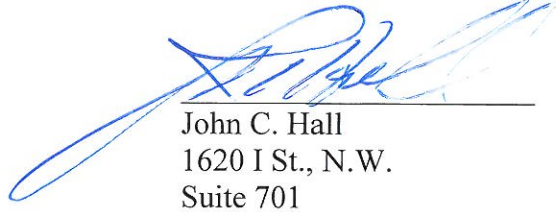
In re:)	
Town of Newmarket)	
)	
NPDES Permit No. NH0100196)	NPDES APPEAL No. 12-05
)	

**PETITIONERS' MOTION TO DISMISS THE PETITION FOR REVIEW OF THE
TOWN OF NEWMARKET NPDES PERMIT**

The Great Bay Municipal Coalition (the "Coalition" or "Petitioners") respectfully moves to dismiss the above-captioned appeal, pursuant to 40 C.F.R. § 124.19(k). As the Board is aware, the key scientific and factual disputes underlying the appeal all relate to whether or how nutrients have adversely impacted the Great Bay system, in violation of the applicable state narrative criteria. The document at the heart of the dispute was the 2009 numeric nutrient criteria document developed by the New Hampshire Department of Environmental Services, which was used for a host of regulatory decisions (*e.g.*, impairment listing, WLA development and permitting). New Hampshire Department of Environmental Services and the Coalition have agreed to conduct an updated peer review of the science underlying the 2009 numeric nutrient criteria document, looking at the most current information for this system. The peer review will be comprehensive, including a "weight of evidence" assessment to determine whether or not the available data and studies reasonably support a conclusion that nutrients are causing eelgrass and dissolved oxygen impairments in the system. This review will, in essence, cover the central regulatory, scientific and factual disputes of this permit appeal. The new peer review will also render moot the legal and factual issues surrounding the prior limited peer review conducted by EPA which excluded participation by the Coalition. At a recent meeting of the parties discussing the peer review, EPA Regional Administrator Spaulding agreed to consider the outcome of the updated peer review in issuing any further NPDES permits to the Great Bay communities.

Therefore, in light of these events which will (1) provide new scientific information based on the most current data relevant to the development of permits for the Petitioners and (2) address key legal/regulatory issues raised in the Newmarket appeal, the Coalition moves to have the Board dismiss the above-captioned appeal.

Respectfully submitted,



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Date: Aug 28, 2013

CERTIFICATION OF SERVICE

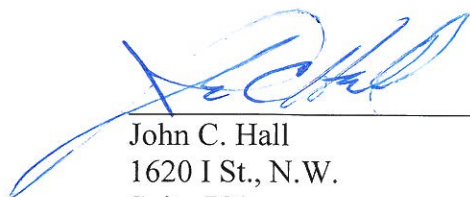
I hereby certify the copies of the foregoing Petitioners' Motion to Dismiss the Petition for Review in connection with NPDES Appeal No. 12-5, were sent to the following persons in the manner indicated:

By Electronic Filing:

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

By First Class U.S. Mail:

Mr. Samir Bukhari
U.S. Environmental Protection Agency
Office of Regional Counsel, Region 1
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