UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

OFFICE OF THE
REGIONAL ADMINISTRATOR

September 16, 2005

VIA ELECTRONIC AND EXPRESS MAIL

U.S. Environmental Protection Agency
Environmental Appeals Board
Eurika Durr, Clerk of the Board
Colorado Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Re: Status Report and Motion to Extend Stay of the Proceedings
City of Brockton, Brockton Advanced Water Reclamation Facility
NPDES Appeal No. 05-04
NPDES Permit No. MA0101010

Dear Ms. Durr:

Enclosed is a Status Report and Motion to Extend Stay of the Proceedings in connection with NPDES Appeal No. 05-04. Please file this status report and motion in your usual manner.

If you should have any questions, please do not hesitate to contact me at 617-918-1095.

Sincerely,

Samir Bukhari
Attorney Advisor
Office of Regional Counsel
US EPA-Region 1

Enclosures

cc:

Timothy A. Watts
Douglas H. Watts

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

In the Matter of:	)	
Brockton Advanced Water Reclamation Facility, City of Brockton, Massachusetts	)	**NPDES Appeal No. 05-04**

STATUS REPORT AND MOTION TO EXTEND STAY OF THE PROCEEDINGS

The New England Region of the Environmental Protection Agency ("EPA" or "Region") respectfully submits to the Environmental Appeals Board ("Board") this status report and motion to extend the stay of the proceedings in the above-referenced appeal. Timothy A. Watts and Douglas H. Watts ("Petitioners," together with EPA, "Parties") have informed EPA of their assent to the status report and motion.

BACKGROUND

On May 11, 2005, EPA reissued National Pollutant Discharge Elimination System Permit No. MA0101010 to the City of Brockton ("Permittee") authorizing discharge of treated wastewater effluent from the Brockton Advanced Water Reclamation Facility ("Facility") to the Salisbury Plain River. On June 9, 2005, Petitioners filed a petition for review by the Board contesting, inter alia, the permit's flow, chlorine and phosphorus limits ("Petition"). The Board directed the Region to submit a response by July 25, 2005 that addressed Petitioners' contentions and whether Petitioners had satisfied the requirements for obtaining review.

On July 19, 2005, the Parties filed a Joint Motion for Stay of the Proceedings. In the Joint Motion, the Parties reported that they had entered into settlement negotiations and, accordingly, requested a stay of the proceedings before the Board until September 18, 2005.

The Board granted the Joint Motion on July 21, 2005 and instructed the Parties to provide the Board with a report on the status of settlement negotiations and to suggest a future course of action by September 18, 2005.

STATUS REPORT AND GROUNDS FOR EXTENSION OF STAY

The Region and the Petitioners are actively engaged in settlement discussions and continue to believe that there is a substantial likelihood of resolution of the issues raised in the Petition. Specifically, the Parties are exploring the possibility of establishing an in-stream water quality monitoring program for the Salisbury Plain and Taunton Rivers ("Monitoring Program") to assess the impacts of the Facility discharges on the receiving waters. The Petitioners have agreed to withdraw their Petition if a Monitoring Program is adopted and if the Permittee commits to utilize ultraviolet light rather than chlorine to treat the Facility's effluent.

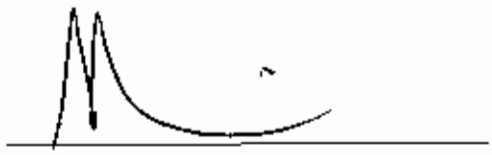
The basis for this motion is to allow the Parties sufficient time to conclude these ongoing settlement discussions. The Region is in the process of developing a cost estimate for the Monitoring Program, as well as determining an appropriate mechanism to implement the Monitoring Program. Resolution of these issues will require further discussion between the Region and the Permittee. Similarly, the Region will also need to coordinate with the Permittee regarding its treatment methods.

Absent a stay, the Parties will be required to divert their time and effort from settlement discussions to the proceeding before this Board. Therefore, in an effort to conserve resources and to encourage efficiency and promote judicial economy, the Region requests that these proceedings be stayed until November 1, 2005. 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 EPA's response to the Petition.

REQUESTED RELIEF

Accordingly, the Region requests that this matter be stayed to allow the Parties to resolve the issue through settlement discussions.

Respectfully submitted,



U.S. Environmental Protection Agency,
New England Region

By its Attorney,
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Dated: September 16, 2005