

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

_____)	
In the Matter of:)	
)	
University of Massachusetts Boston)	
)	NPDES Appeal No. 13-04
NPDES Permit No. MA0040304)	
)	
_____)	

JOINT STATUS REPORT

Respondent Region 1 of the United States Environmental Protection Agency (“Region”) and Petitioner University of Massachusetts Boston (“UMass Boston” or “the University”) hereby submit this status report to provide the Environmental Appeals Board (“Board”) with an update of the status of settlement negotiations in the above-captioned permit appeal. The parties have been working hard to settle this matter and have made substantial progress. At the same time, additional work remains to be done to reach a final settlement. The parties do not yet seek an extension of the stay, however, because we are hopeful that negotiation of the remaining issues and the withdrawal of the appeal will be possible before the expiration of the stay on July 1, 2013. As we work to complete the settlement during the next two weeks, the parties will also continue to evaluate the need for an additional extension of the stay and, if necessary, submit such a request to the Board.

BACKGROUND

On February 7, 2013, the Region issued National Pollutant Discharge Elimination

System Permit No. MA0040304 to UMass Boston. On March 11, 2013, UMass Boston filed a petition with the Board requesting review of certain conditions of the permit. On March 14, 2013, the Board, by letter, directed the Region to file a Response to the Petition, together with a certified index to the administrative record for the permit, no later than April 30, 2013. On March 29, 2013, the Region and UMass Boston jointly requested that the Board stay the above-captioned matter to allow the parties to attempt to negotiate resolution of the issues raised in the petition for review. On April 2, 2013, the Board granted the motion, ordered the parties to provide a status report by May 17, 2013, and set May 31, 2013 as the new deadline for the Region's Response to the Petition. On May 6, 2013, the Region and UMass Boston jointly filed a status report announcing that the parties had reached conceptual agreement on a resolution of the permit appeal but that additional time would be required to allow them to work out several legal and technical/scientific details of their agreement. Accordingly, the parties requested an extension of the stay. On May 7, 2013, the Board granted the request, extending the stay until July 1, 2013 and requiring the filing of this Status Report by June 17, 2013.

STATUS REPORT

Since the Board's May 7, 2013 Order, the parties have continued settlement negotiations and, as a result of those efforts, have resolved the particulars with regard to a number of the legal and technical/scientific issues encompassed by the conceptual agreement which the parties reported to the Board in the May 6, 2013 Status Report. In particular, the Region provided UMass Boston with a draft version of a letter, which UMass Boston confirmed would satisfactorily address its concerns and resolve two minor issues raised during negotiations. In addition, the Region, in continuing coordination with

the Massachusetts Department of Environmental Protection (“MassDEP”), provided UMass Boston with a draft Consented To Order for Compliance, which contains interim limits and a schedule of steps for coming into compliance with certain permit conditions and for determining whether or not modifications should be made to other permit terms. UMass Boston, in turn, provided the Region with its initial comments on the draft, many of which appear to be acceptable to EPA staff, subject to management review. On June 14, 2013, the Region provided UMass Boston with an amended draft of the compliance order, incorporating many of the University’s suggestions and offering counterproposals in response to others. Although final agreement on a small number of legal and technical issues has not yet been reached and, thus, further refinement of the compliance order is necessary before it is acceptable to both parties, the Region and UMass Boston are hopeful that resolution of the remaining matters, including necessary coordination with MassDEP, is possible prior to expiration of the stay on July 1, 2013. Accordingly, the parties do not seek an extension of the stay at this time. Should the parties’ expectations in this regard prove overly optimistic, however, the Region and UMass Boston may find it necessary to request an additional extension at a later date. In light of the favorable progress of settlement discussions thus far, however, the parties will continue to work towards the goal of finalizing the settlement as swiftly as possible and achieving the withdrawal of the permit appeal.

Dated: June 14, 2013

U.S. EPA – Region 1

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Motion to Stay the Proceedings, in connection with In re University of Massachusetts Boston, NPDES Appeal No. 13-04, was sent to the following persons in the manner indicated:

By Electronic Filing:

Ms. Eurika Durr
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Environmental Appeals Board
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Dated: June 14, 2013

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