

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

_____	)	
In re:	)	
	)	
Upper Blackstone	)	
Water Pollution Abatement District	)	NPDES Appeal No. 08-11
	)	
NPDES Permit No. MA 0102369	)	
	)	
_____	)	

**CONSERVATION LAW FOUNDATION’S RESPONSE TO THE MOTION OF  
THE UPPER BLACKSTONE WATER POLLUTION ABATEMENT DISTRICT  
TO CONSOLIDATE**

The Conservation Law Foundation (CLF) objects to the motion of the Upper Blackstone Water Pollution Abatement District (District) to consolidate.

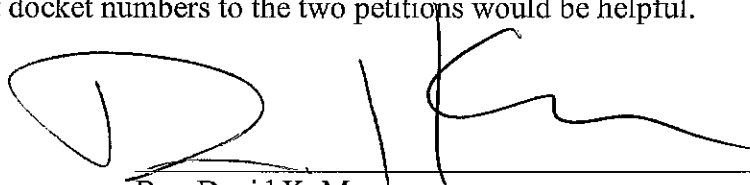
CLF agrees with the United States Environmental Protection Agency Region 1 (Region 1) that “[n]utrient-related impairments in the Blackstone River and in upper Narragansett Bay are severe and undisputed.” (*Region 1’s Response to the Motion to Consolidate* at At ¶4; Docket # 182). It is important that permit limits for nutrients be established as soon as possible, and for that reason CLF agrees that consolidation is inappropriate to the extent that it will delay the resolution of the nutrient issues.

CLF is responding separately to clarify that by supporting Region 1 in opposition to consolidation, CLF is not agreeing to the compliance schedule described by Region 1. *Id.* at ¶5. The Environmental Appeals Board (Board) should not consider the issue of compliance schedules but should instead independently evaluate the question of the

appropriate permit limits for nutrients. As the Board has stated, "the Clean Water Act does not authorize EPA to establish schedules of compliance in the permit that would sanction pollutant discharges that do not meet applicable state water quality standards." In the Matter of Star-Kist Caribe, Inc., NPDES Appeal No. 88-5, 1990 NPDES LEXIS 4 (April 16, 1990) (citing an April 16, 1990 decision of the Administrator).

Finally, if the petitions are not consolidated then CLF agrees with Region 1 that the assignment of different docket numbers to the two petitions would be helpful.

Dated June 3, 2009



By: David K. Mears  
Environmental and Natural Resources Law Clinic  
Vermont Law School  
P.O. Box 96, Chelsea Street  
South Royalton, VT 05068  
(802) 831-1627 (802-831-1631) fax  
dmears@vermontlaw.edu

Christopher M. Kilian, Esq.  
Conservation Law Foundation  
15 East State St, Suite 4  
Montpelier, VT 05602  
(802)-223-5992

John Davenport  
Conservation Law Foundation  
62 Summer Street  
Boston, MA 02110-1016  
Phone: (617) 350-0990  
Fax: (617) 350-4030

I, David K. Mears, hereby certify that copies of the forgoing Response, in connection with the NPDES Appeal Numbers 08-11 and 08-13 were sent to the following recipients by U.S. First Class Mail.

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

Karen Crocker, Esq.  
Mass. Dept. of Environmental Protection  
Office of General Counsel  
One Winter St.  
Boston MA 02108

Susan B. Forcier, Esq.  
Rhode Island Department of Environmental Management  
Office of Legal Services  
235 Promenade St. 4<sup>th</sup> Fl  
Providence, RI 02908

Ned Bartlett, Esq.  
Bowditch & Dewey, LLP  
Metro West Office  
175 Boulevard  
Framingham, MA 01702

John Davenport, Esq.  
Conservation Law Foundation  
62 Summer Street  
Boston, MA 02110-1016

Christopher Kilian  
Conservation Law Foundation  
15 East State Street, Suite 4  
Montpelier, VT 05602

J. Bradford Lange  
Sewer Commission  
Town of Millbury  
Municipal Office Building  
127 Elm Street  
Millbury, MA 01527

Donald G. Manseau  
Cherry Valley Sewer District  
P.O. Box 476  
Leicester, MA 01524

Karen A. McGuire, Esq.  
U.S. Environmental Protection Agency  
Region 1  
One Congress Street, Suite 1100  
Mail Code CDW  
Boston, MA 02114-2023

David M. Moore, Esq.  
City Solicitor, City of Worcester  
City Hall  
455 Main St  
Worcester MA 01608

James Shuris  
Town of Holden  
Director of Public Works  
1196 Main Street  
Holden, MA 01520

Nathan A. Stokes  
Barnes & Thornburg, LLP  
750 17<sup>th</sup> Street, NW  
Suite 900  
Washington, D.C. 20006

Northern RI Chapter 737  
Trout Unlimited  
c/o Roland C. Gauvin  
2208 Mendon Road  
Cumberland, RI 02864

Dated June 3, 2009

A large, stylized handwritten signature in black ink, appearing to read 'DKM', is written over a horizontal line.

By: David K. Mears  
Environmental and Natural Resources Law Clinic  
Vermont Law School  
P.O. Box 96, Chelsea Street  
South Royalton, VT 05068  
(802) 831-1627  
dmears@vermontlaw.edu

Christopher M. Kilian, Esq.  
Conservation Law Foundation  
15 East State St, Suite 4  
Montpelier, VT 05602  
(802)-223-5992

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Phone: (617) 350-0990  
Fax: (617) 350-4030