



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
FIVE POST OFFICE SQUARE – SUITE 100
BOSTON, MASSACHUSETTS 02109-3912**

VIA ELECTRONIC FILING

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

Re: NPDES Appeal No. 10-14
NPDES Permit No. MA0100986
City of Fitchburg (Massachusetts) Wastewater Treatment Facilities Commission

September 21, 2010

Dear Ms. Durr,

Enclosed please find the original of the Region's assented-to Motion to Stay Proceedings in the above-captioned case, with an attached certificate of service. The motion and the certificate of service have been posted electronically to the CDX system, and a paper copy has been mailed to counsel of record today.

Sincerely,

Ronald A. Fein
Ronald A. Fein, Assistant Regional Counsel
U.S. Environmental Protection Agency Region 1
5 Post Office Square, Suite 100 (Mailcode ORA18-1)
Boston, MA 02109-3912
617-918-1040
Fax: 617-918-0040

cc: David E. Evans, Esq.

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

In re: City of Fitchburg)	
Wastewater Treatment Facilities Commission)	
)	NPDES Appeal No. 10-14
NPDES Permit No. MA 0100986)	
)	

MOTION TO STAY PROCEEDINGS

Region 1 (“Region”) of the United States Environmental Protection Agency (the Respondent), with the assent of the City of Fitchburg (Massachusetts) Wastewater Treatment Facilities Commission (the permittee and Petitioner), respectfully requests that the Environmental Appeals Board (“Board”) stay the proceedings in the above-captioned matter until January 14, 2011 to allow the parties to undertake settlement negotiations.

BACKGROUND

On July 22, 2010, the Region issued a final National Pollutant Discharge Elimination System (“NPDES”) permit to the City of Fitchburg Wastewater Treatment Facilities Commission (“City”) for the Fitchburg East Wastewater Treatment Facility and certain combined sewer overflows, NPDES Permit No. MA0100986 (“Permit”). The Permit superseded a prior permit that had been issued on September 13, 2002. On August 26, 2010, the City filed a Petition for Review of the Permit. On August 30, 2010, the Board directed the Region to file by October 18, 2010 a response that addresses Petitioner’s contentions and whether Petitioner has satisfied the requirements for obtaining review.

The parties believe that it may be possible to resolve the contested permit limits in this appeal, and have agreed to enter into settlement discussions.

REQUESTED RELIEF AND GROUNDS FOR SUCH RELIEF

The Region requests that the Board rescind the October 18, 2010 deadline for filing of the Region's response to the Petition for Review and stay the proceedings by four months to January 14, 2011. The Region proposes to submit a status report no later than January 7, 2011, advising whether the Board should further extend the stay, establish a revised schedule for the litigation, or take other appropriate action.

An extension of this length is reasonable and necessary given (1) the need to develop technical information to resolve the issues presented, (2) the need to schedule discussions between the Region and the City (including during the traditional holiday month of December), and (3) the need to coordinate any facility improvements undertaken to comply with the contested permit limits with other significant, integrally related work that the City will likely need to undertake in the near future.

If a stay is not granted, the parties will be forced to divert their time and effort to the proceedings before this Board, when there is a reasonable possibility that the issues raised in the petition for review may be resolved through settlement discussions. Accordingly, in an effort to conserve administrative and judicial resources, and to encourage efficiency and promote judicial economy, the Region, with the assent of Petitioner, requests that the Board grant this motion and stay all proceedings in this matter until January 14, 2011.

The Region represents that its undersigned counsel has discussed this Motion to Stay Proceedings with Petitioner's counsel and that Petitioner assents to the motion.

Respectfully submitted,

Ronald A. Fein
Ronald A. Fein, Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100 (Mailcode ORA18-1)
Boston, MA 02109-3912
617-918-1040
Fax: 617-918-0040
Date: September 21, 2010

CERTIFICATE OF SERVICE

I, Ronald A. Fein, hereby certify that copies of the foregoing Motion to Stay Proceedings were sent on the 21st day of September 2010 to the following persons in the manner described below:

Electronic posting to CDX system

Eurika Durr, Clerk of the Board
Environmental Appeals Board

Copy by first class mail

David E. Evans, Esq.
McGuireWoods LLP
One James Center
Richmond, VA 23219

Signed: September 21, 2010

Ronald A. Fein