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To: Clerk of the Environmental Appeals Board, US EPA
Date: December 16, 2005
Fax: 202/233-0121
Pages: 5, including cover page
From: Geoff Nickerson, Esq.
cc:
Subject: NPDES Appeal No. 05-17

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**BOSTON & MAINE CORPORATION
MAINE CENTRAL RAILROAD COMPANY
SPRINGFIELD TERMINAL RAILWAY COMPANY**

**IRON HORSE PARK
NO. BILLERICA, MASS. 01862**

LAW DEPARTMENT

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December 16, 2005

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

**Re: NPDES Appeal No. 05-17
In re: Boston and Maine Corporation**

Dear Sir or Madame,

Please find enclosed an original Motion to Participate filed on behalf of Boston and Maine Corporation along with five photocopies. If you have any concerns, please do not hesitate to contact me.

Respectfully,

Geoffrey S. Nickerson
Geoffrey S. Nickerson

RECEIVED
DEC 16 2005
U.S. ENVIRONMENTAL PROTECTION AGENCY
CLERK OF THE BOARD

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

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18 20 11

In re:)
)
Boston and Maine Corporation)
East Deerfield, Massachusetts)
)
NPDES Permit No. MA 0000272)
)

NPDES Appeal No. 05-17

MOTION BY PERMITEE TO PARTICIPATE

NOW COMES Boston and Maine Corporation (B&M), by and through its counsel and requests leave to participate in the above captioned matter so that B&M may adequately represent its interest by participating in the Environmental Appeals Board's consideration of the "Petition to the Environmental Appeals Board for Review of NPDES Draft Permit # MA 0000272" dated October 26, 2005, submitted by Connecticut River Watershed Council, Inc., Jamison E. Colburn (Petitioners).

B&M is the Permittee under NPDES permit No. MA 0000272 (Permit). The Permit was signed on September 23, 2005. The Permit authorizes discharge at the B&M East Deerfield Yard, 38 Railroad Yard Road, E. Deerfield, MA 01342.

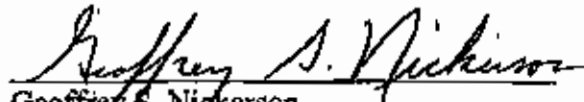
As reasons for its motion to participate, B&M states that it has a material interest relating to the Petition, as B&M is the Permittee. B&M further states that a determination by the Environmental Appeals Board as to the Petition may as a practical matter impair B&M's interest in the Permit. Finally, B&M states that its interest is not adequately represented by the Petitioners or by the Environmental Protection Agency Region 1 (Region). Both Petitioners and the Region have interests divergent from that of

the Permittee, B&M. B&M requests leave to participate so that B&M may adequately represent its position with respect to the Permit.

B&M requests that it be allowed to file a written response to the Petition for Review on or before February 3, 2005. Such a response period would allow B&M the same amount of time to reply to the Petition as the Region has been granted by the Environmental Appeals Board under the Order Granting Motion for Extension of Time to File Response filed on December 7, 2005 by the Clerk of the Environmental Appeals Board.

WHEREFORE, B&M respectfully requests that the Environmental Appeals Board grant B&M's motion to participate.

BOSTON AND MAINE CORPORATION
By its attorney



Geoffrey S. Nickerson
Massachusetts (BBO# 657988)
Boston and Maine Corporation
Iron Horse Park
North Billerica, MA 01862

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion by Permittee to Participate in the matter of Boston and Maine Corporation, NPDES Appeal No. 05-17, were sent to the following persons in the manner indicated on December 16, 2005:

By First Class Mail: Professor Jamison Colburn
WNEC-Law School
1215 Wilbraham Rd.
Springfield, MA 01119-2654

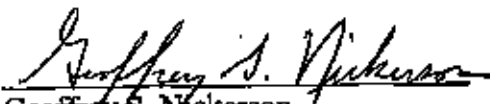
Andrea Donlon
River Steward
Connecticut River Watershed Council, Inc.
15 Bank Row
Greenfield, MA 01301

Ronald A. Fein, Assistant Regional Counsel
US EPA Region I
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114

Via Facsimile and
Overnight Courier:

U.S. Environmental Protection Agency
Clerk of the Board
Environmental Appeals Board
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