



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA ELECTRONIC FILING

November 7, 2017

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

RE: In re Town of Fairhaven
NPDES Permit No. MA0100765; NPDES Appeal No. 17-08

Dear Ms. Durr:

Please find the attached Joint Motion to Stay the Proceedings and accompanying Certificate of Service, in connection with NPDES Appeal No. 17-08.

Thank you for your assistance with this matter.

Sincerely,

/s/ Michael Curley
Michael Curley
US EPA – Region 1
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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

_____)	
In the Matter of:)	
)	
Town of Fairhaven)	NPDES Appeal No. 17-08
)	
NPDES Permit No. MA0100765)	
_____)	

JOINT MOTION TO STAY THE PROCEEDINGS

Region 1 of the United States Environmental Protection Agency (“Region”) and the Town of Fairhaven, Massachusetts (“Fairhaven”) respectfully request that the Environmental Appeals Board (“EAB” or “Board”) stay the above-captioned matter for 60 days to provide the parties time to undertake settlement negotiations. The basis for the motion is discussed below.

REQUESTED RELIEF AND GROUNDS FOR SUCH RELIEF

On September 27, 2017, the Region issued National Pollutant Discharge Elimination System Permit No. M A0100765 (“NPDES Permit”) to Fairhaven. On October 27, 2017, Fairhaven filed a Petition for Review (“Petition”) with the Board requesting review of certain conditions of the NPDES Permit. At this time, however, the parties believe that a negotiated resolution of some or all of the issues raised in the Petition is possible and have agreed to enter into settlement discussions. The parties expect that resolution of this permit is most amenable to direct negotiations and, thus, respectfully decline the opportunity to participate in the EAB-sponsored Alternative

Dispute Resolution (“ADR”) program at this time. In the event that negotiations prove unsuccessful, however, the parties may wish to accept the Board’s offer at a later date, if possible, for any issues that remain. Accordingly, the Region and Fairhaven respectfully request that the Board stay the proceedings for 60 days, with a briefing schedule on the merits of the appeal to be set upon the expiration of the stay. During the stay, the parties would update the Board via two status reports describing the progress of negotiations and, in the case of the second report, advising the Board whether it would be appropriate to continue the stay to allow further settlement negotiations, to assign an EAB Settlement Judge pursuant to the Board’s ADR program, to dismiss the Petition, or to allow the stay to expire and set a briefing schedule.

CONCLUSION

For these reasons, and to conserve administrative and judicial resources, the parties respectfully request that the Board issue an order that: (1) stays the proceedings for 60 days, with two status reports due to the Board at regular intervals; and (2) delays setting a briefing schedule on the merits of the appeal until the stay expires.

Dated: November 7, 2017

Respectfully submitted,

U.S. EPA – Region 1

Town of Fairhaven

/s/Michael Curley
Michael Curley
Assistant Regional Counsel
U.S. Environmental Protection Agency

/s/ Michael Curley for William E. Taylor
William E. Taylor, Esq.
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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 Town of Fairhaven*, NPDES Appeal No. 17-08, was sent to the following persons in the manner indicated:

By Electronic Filing:

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

By first class mail and email:

Mr. William Taylor, Esq.
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Dated: November 7, 2017

/s/Michael Curley
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