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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

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ENVIR. APPEALS BOARD

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

January 5, 2011

Eurika Durr, Clerk of the Board (MC 1103B)
Environmental Appeals Board
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-001

Albert Sheridan, Plant Manager
Barnhardt Manufacturing Company
247 Main Road
Colrain, MA 01340

Peter J. Feuerbach, Esq.
Keren Schlomy, Esq.
Rubin and Rudman LLP
50 Rowes Wharf
Boston, MA 02110

**Re: Notice of Contested and Uncontested Conditions of NPDES Permit No. MA0003697
Barnhardt Manufacturing Company
NPDES Appeal No. 10-17**

Dear Ms. Durr, Mr. Sheridan, Mr. Feuerbach, and Ms. Schlomy:

On November 24, 2010 the Barnhardt Manufacturing Company ("Permittee") filed a Petition for Review ("Petition") of NPDES Permit No. MA0003697 ("Permit") with the Environmental Appeals Board ("Board") pursuant to 40 C.F.R. § 124.19(a). The Permit had been reissued to the Permittee on October 26, 2010 by the New England Regional Office of the U.S. Environmental Protection Agency ("Region"). The Permit superseded the permit issued by the Region on March 26, 2001 and modified on August 17, 2004 ("Prior Permit").

In its Petition, the Permittee contests the following limitations and conditions of the Permit:

1. The maximum daily ammonia-nitrogen effluent limit of 42 lb/day, at Part I.A.1, on p. 3;
2. The acute whole effluent toxicity (LC50) effluent limit of 100%, at Part I.A.1, on p. 4;
3. The acute toxicity Best Management Practices requirement, at Part I.C.1.d, on p. 9;
4. The nitrogen Best Management Practices requirement, at Part I.C.1.e, on p. 9; and

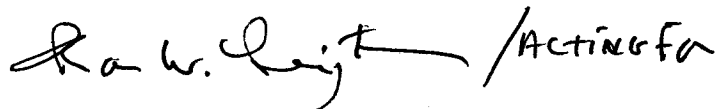
5. The nitrogen optimization requirement, at Part I.C.2, on p. 9.

The limitations and conditions contested by the permittee are collectively referred to herein as the "Contested Conditions." Pursuant to 40 C.F.R. §§ 124.16(a)(2)(ii) and 124.60(b), this letter notifies you of my determination that the Contested Conditions are stayed until final agency action under 40 C.F.R. § 124.19(f). With respect to each of the Contested Conditions, the corresponding term in the Prior Permit, if any, shall remain in effect pending resolution of Board proceedings.

All conditions of the Permit other than the aforementioned Contested Conditions are uncontested and severable from the Contested Conditions. Thus, all of the other conditions are not stayed and will become fully effective enforceable obligations of the Permit thirty days after the date of this notice, pursuant to 40 C.F.R. §§ 124.16(a)(2)(i) and 124.60(b)(5).

If you have any questions regarding this correspondence, please feel free to contact Ronald Fein, the Region's legal counsel in this matter at 617-918-1040, or Nicole Kowalski, in the Region's Office of Ecosystem Protection, at 617-918-1746.

Sincerely,

 / Acting FA

H. Curtis Spalding
Regional Administrator

cc: David Ferris, MassDEP
Stephen Perkins, EPA
Damien Houlihan, EPA
Denny Dart, EPA