



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

VIA ELECTRONIC FILING

August 28, 2015

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

RE: In the Matter of General Electric Aviation (NPDES Permit No. MA0003905);
NPDES Permit Appeal No. 14-03;

Dear Ms. Durr:

Please find enclosed EPA Region 1 and General Electric Aviation's, "Fifth Joint Settlement Negotiations Status Report," and an accompanying Certificate of Service in connection with NPDES Appeal No. 14-03.

Thank you for your assistance with the filing of this pleading with EPA's Environmental Appeals Board.

Sincerely,

Mark A. Stein /s/

Mark A. Stein

Senior Assistant Regional Counsel
US Environmental Protection Agency
Office of Regional Counsel, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA 18-1
Boston, MA 02109-3912
Tel: (617) 918-1077
Fax: (617) 918-0077
Email: stein.mark@epa.gov

Enclosures

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

_____)	
In the Matter of:)	
)	
General Electric Aviation)	NPDES Appeal No. 14-03
)	
NPDES Permit No. MA0003905)	
_____)	

FIFTH JOINT SETTLEMENT NEGOTIATIONS STATUS REPORT

In accordance with the Environmental Appeals Board’s (“Board”) Order dated June 25, 2015, Region 1 of the United States Environmental Protection Agency (“Region 1” or “the Region”) and General Electric Aviation (“GE”) respectfully submit this Fifth Joint Settlement Negotiations Status.

The parties are pleased to report that they have successfully implemented their agreed upon plan for settling this permit appeal. As a result, a new, modified NPDES permit has been put into effect and the parties need not request an extension of the current stay of this proceeding. The current stay expires on September 30, 2015, and GE will file a motion to withdraw the instant permit appeal as soon as possible, but no later than September 28, 2015 (*i.e.*, before the stay would be lifted). Indeed, GE expects to file its motion before September 28, 2015, but does need some time for its internal review and approval process.

STATUS REPORT ON SETTLEMENT NEGOTIATIONS

Region 1 and the Massachusetts Department of Environmental Protection (“MassDEP”) jointly re-issued GE a new NPDES permit (No. MA0003905) on

September 30, 2014 (“GE’s New NPDES Permit”). GE subsequently filed the instant appeal with the Board. Since then, the Board has granted the parties’ several motions to stay the proceeding to facilitate attempts to negotiate a settlement of the appeal.

On June 23, 2015, the parties jointly filed their Fourth Joint Settlement Status Report and Motion to Continue the Stay of Permit Appeal Proceeding (the “Fourth Status Report”). In this status report, the parties described the plan they had agreed upon for the potential full settlement of this permit appeal, but also identified certain contingencies that could have arisen and either disrupted the settlement plan or necessitated more time to put it into effect.

Consistent with that plan, on July 13, 2015, Region 1 and MassDEP issued for public review and comment pursuant to 40 C.F.R. § 122.62, among other provisions of the regulations, draft modifications to GE’s New NPDES Permit. The regulatory agencies and GE had agreed on the terms of these permit modifications as part of their plan for settling this permit appeal. The modifications were intended to resolve a subset of the issues raised in the permit appeal. The parties explained that if no adverse public comments were submitted in response to the proposed permit modifications, then Region 1 and MassDEP would issue a final permit decision putting GE’s New NPDES Permit, as modified, into effect immediately in accordance with 40 C.F.R. §§ 124.15(a) and (b). The regulatory agencies, in fact, received no public comments on the draft permit modifications and, as a result, Region 1 and MassDEP put the modified permit into effect on August 19, 2015.

In addition, as the Fourth Status Report had also explained, the parties further agreed to address a second subset of issues by Region 1 and MassDEP issuing certain minor modifications to the new NPDES permit. Accordingly, these minor modifications were issued by a Region 1 letter dated August 19, 2015, and they took effect the same

day, consistent with 40 C.F.R. § 122.63. As a result of these actions, some of the terms of the permit issued by the Region and MassDEP on September 30, 2014, have remained unchanged, while others have been modified as agreed to by the parties. A copy of the new NPDES permit, as modified, is available on Region 1's public website at <http://www.epa.gov/region1/npdes/permits/2015/finalma0003905permitmod.pdf> (last accessed on August 27, 2015).

The Fourth Status Report explained that if EPA and MassDEP put the permit modifications permit into effect as agreed upon with GE, then GE would file a motion to withdraw the instant permit appeal (and its permit appeal before the state). Accordingly, GE will file such a motion as soon as possible, but no later than September 28, 2015.

Finally, as also reported in the Fourth Status Report, and prior status reports, Region 1 and MassDEP are engaged in discussions with a third party, Lynnway Associates, LLC (Lynnway),¹ regarding NPDES permitting issues involving former portions of the GE property that have been acquired by Lynnway. Region 1 and MassDEP remain in productive discussions with Lynnway in an effort to work out a satisfactory approach to NPDES permitting for and pollutant discharges from the Lynnway property to the Saugus River. These matters are outside of the coverage of GE's NPDES permit, however, and efforts to address them will continue outside of this permit appeal proceeding.

CONCLUSION

The parties are pleased that they have been able to settle this appeal and avoid significant expenditures of the Board's adjudicative resources and the parties' litigation

¹ As reported in the Status Report of February 13, 2015, Lynnway purchased part of the GE property after Region 1 issued GE the NPDES permit at issue in this appeal.

resources. In addition, the parties appreciate the time afforded them by the Board to facilitate reaching this result.

Respectfully submitted,

U.S. EPA – Region 1

General Electric Aviation

Mark A. Stein /s/
Mark A. Stein
Senior Assistant Regional Counsel
5 Post Office Square, Suite 100
Mailcode: ORA18-1
Boston, MA 02109-3912
Tel: (617) 918-1077
Fax: (617) 918-0077
E-mail: stein.mark@epa.gov

Brooks M. Smith, Esq. /s/
Brooks M. Smith, Esq.
Troutman Sanders LLP
1001 Haxall Point
Richmond, VA 23219
Tel: (804) 697-1414
401 9th Street, NW
Washington, DC 20004
(202) 274-2991
brooks.smith@troutmansanders.com

Dated: August 28, 2015

CERTIFICATE OF SERVICE

I, Mark A. Stein, hereby certify that on August 28, 2015, a copy of EPA Region 1 and General Electric Aviation's "Fifth Joint Settlement Negotiations Status Report," in the matter of General Electric Aviation (NPDES Permit No. 0003905), NPDES Appeal No. 14-03, was served on 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 Electronic Transmission (as agreed upon):

Brooks M. Smith
Troutman Sanders LLP
1001 Haxall Point
Richmond, VA 23219
Tel: (804) 697-1414
401 9th Street, NW
Washington, DC 20004
(202) 274-2991
brooks.smith@troutmansanders.com

Dated: August 28, 2015

Mark A. Stein /s/
Mark A. Stein
Senior Assistant Regional Counsel
US Environmental Protection Agency
Office of Regional Counsel, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA 18-1
Boston, MA 02109-3912
Tel: (617) 918-1077
Fax: (617) 918-0077
Email: stein.mark@epa.gov