



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

**VIA OVERNIGHT MAIL AND ELECTRONIC SUBMISSION**

November 26, 2008

Ms. Eurika Durr  
Clerk of the Board  
U.S. EPA Environmental Appeals Board (MC 1103B)  
Colorado Building  
1341 G Street, N.W., Suite 600  
Washington, D.C. 20005

Thomas K. Walsh, Director  
Upper Blackstone Water Pollution Abatement District  
50 Route 20  
Millbury, MA 01527

**Re: Upper Blackstone Water Pollution Abatement District  
Notice of Uncontested and Severable Conditions  
NPDES Appeal Nos. 08-11, 08-12, 08-13, 08-14, 08-15, 08-16, 08-17, 08-18  
NPDES Permit No. MA 0102369**

Dear Ms. Durr and Mr. Walsh:

The Upper Blackstone Water Pollution Abatement District ("District"), Massachusetts Department of Environmental Protection ("MassDEP"), Conservation Law Foundation, Northern RI Chapter 737 Trout Unlimited, Town of Holden, Town of Millbury, Cherry Valley Sewer District, and City of Worcester (collectively "Petitioners") timely petitioned the U.S. Environmental Protection Agency ("EPA") Environmental Appeals Board ("Board") for review of NPDES Permit No. MA 0102369 ("Permit") between September 15, 2008 and September 24, 2008. Region 1 of the EPA issued the Permit on August 22, 2008.

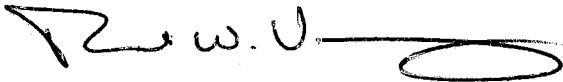
Pursuant to 40 C.F.R. § 124.19, the Petitioners seek review of the Permit's: (i) imposition of requirements of Parts D and E on the District and other co-permittees, including the timing for submittal of the Inflow/Infiltration Plan (*see* Permit at page 1 and Parts D and E), (ii) fecal coliform effluent limits, applied seasonally from November 1 through March 31 (*id.* at I.A.1 and footnote 6); (iii) ammonia nitrogen effluent limits, applied year round (*id.* at I.A.1); (iv) total nitrogen effluent limits (*id.*), including cold weather denitrification requirements (*id.* at footnote 9); (v) total phosphorous effluent limits (*id.* at I.A.1); (vi) total aluminum, lead, and nickel monitoring and reporting requirements (*id.*); (vii) total

copper and cadmium effluent limits (*id.*); (viii) sampling protocol for fecal coliform effluent limits when outfall 001A is active (*id.* at footnote 5); and (ix) sampling schedule for whole effluent toxicity (*id.* at I.A.1 and footnote 13).

The limits and conditions contested by the Petitioners are 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 during the pendency of this appeal and until final agency action under 40 C.F.R. § 124.19(f). Also stayed are the effluent limitations associated with the sampling protocols challenged in (viii) and (ix) above – i.e., fecal coliform effluent limitations at outfall 001A (Permit at I.A.1) and effluent limitations for WET (*Id.*). Please note that the Permit's effluent limitations for fecal coliform at outfall 001 are not stayed. With respect to each of the Contested Conditions, the corresponding term, if any, in the District's prior permit issued September 30, 1999, shall remain in effect. In addition, WET effluent limitations in the prior permit shall remain in effect. All other conditions of the Permit are uncontested and severable from the Contested Conditions. Thus, all of the other conditions will become fully effective enforceable obligations of the Permit on January 1, 2009 consistent with 40 C.F.R. § 124.16(a)(2)(i).

If you have any questions regarding this correspondence, please feel free to contact Karen McGuire, the Region's counsel in this matter, at 617-918-1711.

Sincerely,



Robert W. Varney  
Regional Administrator

cc: Robert L. Moylan Jr., Commissioner, Dept. of Public Works and Parks, Worcester  
James Shuris, Director of Public Works, Town of Holden  
J. Bradford Lange, Sewer Commission, Town of Millbury  
Donald G. Manseau, Cherry Valley Sewer District  
Town of Auburn, Board of Selectmen  
Town of Rutland, Board of Selectmen  
Town of West Boylston, Board of Selectmen  
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Karen L. Crocker, Counsel, MassDEP