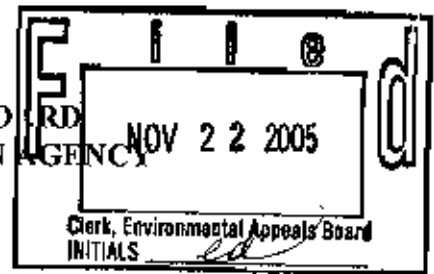


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



\_\_\_\_\_  
In re: \_\_\_\_\_  
City of Marlborough Westerly  
Wastewater Treatment Facility  
NPDES Permit No. MA0100480  
\_\_\_\_\_

NPDES Appeal Nos. 05-05 & 05-09

\_\_\_\_\_  
In re: \_\_\_\_\_  
Town of Westborough Wastewater  
Treatment Facility  
NPDES Permit No. MA0100412  
\_\_\_\_\_

NPDES Appeal Nos. 05-07 & 05-08

**ORDER STAYING PROCEEDINGS**

By Motion filed<sup>1</sup> on October 14, 2005, U.S. EPA Region I (the "Region") seeks a stay of the proceedings in the above-captioned matters. See Motion to Stay Proceedings Pending Partial Withdrawal and Modification of the Permits (Nov. 14, 2005) ("Motion"). In support of the Motion, the Region states that it has decided to withdraw portions of the disputed permits, including "at a minimum" the permits' compliance schedules pursuant to 40 C.F.R. § 124.19(d), and propose permit modifications. Motion at 3. The Region states further that:

Pending completion of the modification process, the Region respectfully requests that the Board stay the proceedings \* \* \*. To do otherwise would carry a substantial risk of confusion and waste of judicial resources. Specifically, the

<sup>1</sup> Documents are "filed" with the Board on the date they are *received*.

Region will not be able to determine with accuracy how a variety of issues raised in the Petitions will be implicated by the modifications prior to knowing the final form of the modifications. For instance, Marlborough and OAR have each broadly contested the adequacy of the phosphorous effluent limits, which will be materially impacted by the contemplated compliance schedule modifications. Westborough, for its part, references the current compliance schedule in its challenges to the interim pH limit, total copper limit, winter phosphorus limit and the ammonia-nitrogen limit. The substance of the final modifications, however, will not be known until the draft modifications have been prepared, public comments have been considered and the final modifications have been issued in accordance with 40 C.F.R. §§ 124.19(d) and 124.6. The Region believes that the substantial potential for confusion can be cured by the filing of a single brief to defend the permits as modified at the conclusion of the permit modification process.

*Id.* at 3. The Region also notes that certain issue may be mooted by the permit modifications.

According to the Motion, the Region expects to complete the modification process no later than

April 1, 2006, "which allows for approximately (i) 45 days for public notice and comment \* \* \*;

(ii) 30 days for the Region to draft its response to comments and issue a final permit

modification, and (iii) 30 days for the parties to file their appeals \* \* \*." *Id.* at 4. Finally, the

Region notes that "efforts to resolve the dispute through neutral mediation will proceed."

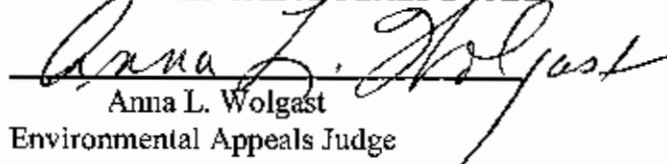
Motion at 3 n.2.

For good cause shown, proceedings in the above-captioned matters are stayed until May 8, 2006. The Region shall provide the Board with status reports on the progress of the permit modifications and mediation efforts no later than January 13, 2006 and March 17, 2006.

So ordered.

Dated: 11/22/05

ENVIRONMENTAL APPEALS BOARD

  
Anna L. Wolgast  
Environmental Appeals Judge

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Staying Proceedings in the matters of City of Marlborough Westerly Wastewater Treatment Facility, NPDES Appeal Nos. 05-05 & 05-09; Town of Westborough Wastewater Treatment Facility, NPDES Appeal Nos. 05-07 & 05-08, were sent to the following persons in the manner indicated:

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Date: NOV 23 2005

  
Annette Duncan  
Secretary