

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

_____)	
In the Matter of:)	
)	
City of Cambridge, DPW)	NPDES Appeal No. 09-17
Combined Sewer Overflows)	
)	
NPDES Permit No. MA 0101974)	
)	
_____)	

REGION 1'S STATUS REPORT

The United States Environmental Protection Agency, Region 1 (“the Region”) provides this status report to the Environmental Appeals Board (“the Board”) regarding the above-referenced matter, in accordance with the Board’s December 17, 2009 Order.

On September 30, 2009, the Region reissued a National Pollutant Discharge Elimination System (“NPDES”) Permit, No. MA 0101974 (“the Permit”), to the City of Cambridge, Department of Public Works authorizing combined sewer overflow (“CSO”) discharges into the Alewife Brook and Charles River. On November 3, 2009, Stephen H. Kaiser (“the Petitioner”) filed a petition for review (“the Petition”) with the Board, contesting the Permit’s alleged failure to sufficiently limit CSO inflow from Alewife Brook floodwaters. By letter dated November 6, 2009, the Board directed the Region to file its response to the above-referenced petition by December 22, 2009. On December 3, 2009, the City of Cambridge (“the City”) moved to intervene as a party respondent in this matter. By Order dated December 9, 2009, the Board granted the City’s motion and directed the City to file its response by December 22, 2009. On December 17, 2009, the

Region filed a motion requesting a 60-day stay of the proceedings in this case. By Order dated December 17, 2009, the Board granted the Region's request for stay and required that the Region file a report regarding the status of this appeal by February 22, 2010.

During the 60-day stay of proceedings in this matter, the Region met with the Petitioner and the City individually. The Region believed the issues on appeal were relatively straight forward and remained optimistic that the parties could resolve them through settlement discussions. However, while the Region clarified some issues during the negotiations, the parties were unable to make substantial progress towards a settlement agreement in this matter. The City agreed to meet only with the Region throughout this process, and the Petitioner felt it imperative to meet with all parties to obtain resolution on the issues raised in this appeal. Accordingly, the parties were unable to resolve any of the issues on appeal during the stay of proceedings, and the Region does not believe that an additional stay of litigation in this matter would prove beneficial under the circumstances. Nonetheless, without prejudicing the schedule suggested below, the Region would be willing to meet with a neutral facilitator if the Petitioner and the City expressed an interest in this process.

Given that the parties have not resolved any of the issues on appeal, the Region requests that the Board set a date for the Region and the City to respond to the Petition. The Region proposes a deadline of April 5, 2010 for the responses.

Respectfully submitted by U.S. EPA-Region 1,

Dated: February 19, 2010



Amanda J. Helwig
Office of Regional Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912
Tel: (617) 918-1180
Fax: (617) 918-0180
helwig.amanda@epa.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Status Report, in connection with NPDES Appeal No. 09-17, was sent to the following persons in the manner indicated:

By Electronic Submission and Federal Express:

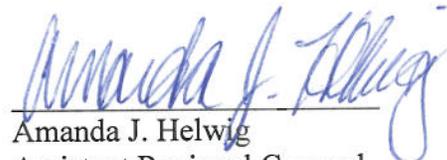
U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board (MC 1103B)
Colorado Building
1341 G Street, NW
Suite 600
Washington, D.C. 20005

By First Class U.S. Mail:

Stephen H. Kaiser, PhD
191 Hamilton Street
Cambridge, MA 02139

Stephen D. Anderson, Esq.
Elizabeth F. Mason, Esq.
Anderson & Kreiger LLP
One Canal Park, Suite 200
Cambridge, MA 02141

Dated: February 19, 2010


Amanda J. Helwig
Assistant Regional Counsel
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912
Tel: (617) 918-1180
Fax: (617) 918-0180