



EHUM. APPEALS BOARD

**DOUGLAS H. WILKINS** 

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September 11, 2008

## VIA FEDEX

U.S. Environmental Protection Agency Clerk of the Board, Environmental Appeals Board 1341 G Street, N.W., Suite 600 Washington, DC 20005

Re:

In re: City of Attleboro, MA Department of Wastewater, Government Center, 77 Park Street, Attleboro, MA 02703 NPDES Permit No. MA 0100595

NPDES Appeal No. 08-09

Dear Sir/Madam:

Enclosed for filing in the above matter are the original and five copies of the Motion of the Permittee, City of Attleboro, for Leave to Reply to Region 1's Response to Petition for Review.

Douglas H. Wilkins

DHW:skc enclosures

cc:

Carl Dierker, U.S. EPA, Region 1

Samir Bukhari

Susan B. Forcier, Esquire

Client

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## UNITED STATES OF AMERICA ENVIRONMENTAL APPEALS BOARD ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, D.C.

SWUR. APPEALS BOARD

NPDES APPEAL No. 08-08

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In re:	,
City of Attleboro, MA Department of	,
Wastewater, Government Center,	
77 Park Street, Attleboro, MA 02703	,
NPDES Permit No. MA0100595	;
Petition of Rhode Island Department of Environ-	,
Mental Management	,
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## MOTION OF THE PERMITTEE, CITY OF ATTLEBORO, FOR LEAVE TO REPLY TO REGION 1'S RESPONSE TO PETITION FOR REVIEW

The Permittee, City of Attleboro ("City" or "Attleboro"), requests leave to submit a reply to Region 1's Response to the Petition for Review. At 110 pages, Region 1's response is nearly three times the length of Attleboro's petition and contains much discussion that is not central to this appeal. Obviously, not all of Region 1's points merit a response and Attleboro intends to rest on its Petition in most respects. However, a short reply will serve four purposes:

- Assist the Board in focusing upon the few points that really matter;
- Refute Region 1's claims that certain issues were not raised below;
- Correct misstatements of law and fact; and
- Clarify Attleboro's arguments, in instances where Region 1 has not restated them accurately in responding to them.

This motion is timely, as the City's counsel received Region 1's response upon return from Labor Day weekend on September 2, 2008. The City has not requested leave for a reply

reflexively, but has reviewed the Region's response to consider whether a reply would assist the Board in focusing upon the key issues. After review, the City is convinced that a reply would serve that purpose. It proposes to file the reply by September 19, 2008, which is only three weeks after Region 1's Response was filed.

Respectfully submitted,

Douglas H. Wilkins Mass Bar No. 528000

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## CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2008, copies of the foregoing Response of the Permittee, City of Attleboro, to RIDEM's Petition for Review were sent to the following persons by first class mail, postage prepaid:

Carl Dierker Samir Bukhari Office of Regional Counsel U.S. EPA, Region 1 1 Congress Street, Suite 1100 Boston, MA 02114-2023

Susan B. Forcier, Esq.
Department of Environmental Management
Office of Legal Services
235 Promenade Street, 4<sup>th</sup> Floor
Providence, RI 02908

Douglas H. Wilkins