

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

In the Matter of:	)	
	)	
City of Lowell	)	
	)	NPDES Appeal No. 19-03
NPDES Permit No. MA0100633	)	
	)	

**EPA MOTION FOR EXTENSION OF TIME**

Pursuant to 40 C.F.R. § 124.19(f), Region 1 of the United States Environmental Protection Agency (“EPA”) hereby moves the Environmental Appeals Board (“Board”) for a 14-day extension of time to file its Response to the Petition Review in this matter.

The grounds for this motion are as follows:

1. On September 25, 2019, EPA issued a National Pollutant Discharge Elimination System Permit (“NPDES”) to the City (“the Permit”), authorizing discharges from the City of Lowell’s (“City” wastewater treatment facility to the Merrimack River, in Massachusetts.
2. On October 24, 2019, the City timely filed a Petition for Review (“Petition”) with the Board requesting review of numerous conditions of the permit.

Specifically, the City challenged the following elements of the Permit:

- a. The total phosphorous monthly average limit in the “summer” from April 1 through October 31 each year;
- b. The effluent flow limit;

- c. The *E. coli* daily maximum limit;
  - d. The quarterly whole effluent toxicity (WET) testing;
  - e. The quarterly testing for metals, including: aluminum, cadmium, copper, nickel, lead and zinc;
  - f. The City' position that the Permit should have taken into account elements of the City's draft CSO long term control plan;
  - g. The provisions addressing the bypass of secondary treatment;
  - h. The requirement that discharges shall not cause a violation of the water quality standards of the receiving water;
  - i. The requirement that CSO discharges shall not cause or contribute to violations of federal or state water quality standards; and,
  - j. The requirement to develop a routine sampling program in which samples are taken at the same time and days of the week each month and the requirement that WET testing occur during the same week in January, April, July, and October.
3. Under 40 C.F.R. § 124.19(b)(2), EPA's response to the Petition, along with a certified index and relevant portions of the administrative record, is due within 30 days after service of the Petition, or November 26, 2019.
4. The Region received three NPDES petitions within two days, including the subject Petition. Each of the three petitions has raised numerous legal and technical issues involving complex and extensive administrative records. The same technical team working on the response to the Lowell Petition is also working to resolve the disputes raised in the other two petitions.

5. EPA's response is due two days before the Thanksgiving holiday, and several key technical and legal staff members will be out of the office during all or part of the Thanksgiving week.
6. EPA's response brief will require consultation within Region 1, as well as with EPA's Office of General Counsel and Office of Water prior to being finalized, and this consultation period would fall within the few days before the Thanksgiving holiday.
7. EPA contacted Petitioner's counsel to ascertain its position on this motion. Petitioner's counsel has assented to this Motion. The parties have conferred and have decided that an extension of time is warranted.
8. To facilitate an orderly production of EPA's response to assist the Board in its deliberations, and to ensure that EPA's positions have been fully reviewed within the Region and Headquarters, EPA requests a 14-day extension of time for EPA's response to petition.

For the reasons set forth above, and in the interest of promoting efficiency, EPA respectfully requests that the Board grant this Motion for an Extension of Time.

Dated: November 19, 2019

Respectfully submitted,  
U.S. EPA – Region 1

\_\_\_\_\_/s/\_\_\_\_\_  
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Extension of Time, in connection with In re City of Lowell, NPDES Appeal No. 19-03, was sent to the following persons in the manner indicated:

By Electronic Filing:

Ms. Eurika Durr  
Clerk of the Board  
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Environmental Appeals Board  
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Dated: November 19, 2019

\_\_\_\_\_/s/\_\_\_\_\_  
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