

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

In the Matter of:)	
)	
University of Massachusetts Boston)	
)	NPDES Appeal No. 13-04
NPDES Permit No. MA0040304)	
)	
)	

**JOINT MOTION TO EXTEND STAY OF PROCEEDINGS AND DEADLINE
FOR REGION 1'S SUBMISSION OF A RESPONSE TO THE PETITION**

Respondent Region 1 of the United States Environmental Protection Agency (“Region”) and Petitioner University of Massachusetts Boston (“UMass Boston”) have made significant efforts to settle the above-captioned appeal and have resolved substantially all remaining legal and technical issues. Since the filing of the June 14, 2013 Status Report, however, the parties have continued to evaluate the need for an extension of the current stay and have determined that additional time is required to ensure appropriate coordination of the proposed settlement with the Massachusetts Department of Environmental Protection (“MassDEP”). Accordingly, the Region and UMass Boston jointly request that the Environmental Appeals Board (“Board”) extend the stay of the above-captioned matter until July 31, 2013, and move the due date for the Region’s Response to the Petition to August 29, 2013.

BACKGROUND

On February 7, 2013, the Region issued National Pollutant Discharge Elimination

System Permit No. MA0040304 to UMass Boston under the federal Clean Water Act, 33 U.S.C. § 1251, *et seq.* (“CWA”), and MassDEP co-issued the permit to UMass Boston under the Massachusetts Clean Waters Act, M.G.L. ch. 21, §§ 26-53.¹ On March 11, 2013, UMass Boston filed a petition with the Board requesting review of certain conditions of the permit. On March 14, 2013, the Board directed the Region to file a Response to the Petition no later than April 30, 2013. On March 29, 2013, the Region and UMass Boston jointly requested a stay to allow the parties to negotiate resolution of the issues raised in the petition for review, which the Board granted on April 2, 2013. On May 6, 2013, the Region and UMass Boston filed a status report announcing that the parties had reached conceptual agreement on a resolution of the permit appeal but that additional time was required to work out the legal and technical/scientific details of their agreement. Accordingly, the parties requested an extension of the stay. On May 7, 2013, the Board granted the request, extending the stay until July 1, 2013 and requiring the filing of a Status Report by June 17, 2013. On June 14, 2013, the parties reported to the Board that, among other things, significant progress had been made toward finalizing a Consented To Order for Compliance, but that further refinement was necessary with respect to a small number of legal and technical issues. The parties further reported that, although they expected resolution of these remaining issues, as well as necessary coordination with MassDEP, could occur before the expiration of the stay on July 1, 2013, they would continue to evaluate the need for an additional extension and, if necessary, submit such a request to the Board.

¹ See *In re Dominion Energy Brayton Point, LLC*, 12 E.A.D. 490, 497 n.5 (EAB 2006) (discussing coordinated EPA and MassDEP permitting under the CWA and state Clean Waters Act).

RELIEF REQUESTED AND GROUNDS FOR SUCH RELIEF

As the Board is aware, settlement discussions to resolve this proceeding have involved MassDEP, the co-issuer of the NPDES permit on appeal, in an effort, among other reasons, to achieve suitable resolution of both this proceeding and the concurrent state administrative permit appeal brought by UMass Boston. Once the Region, UMass Boston, and MassDEP had reached conceptual agreement on the resolution of both appeals, the Region began drafting and negotiating the specific details with UMass Boston in the context of a federal compliance order to settle the proceeding before the Board. Similarly, MassDEP and UMass Boston agreed in principle that the state proceeding could likewise be resolved through an analogous state compliance order. While EPA and MassDEP have coordinated with each other concerning the substantive issues involved in the settlement negotiations, for practical reasons the parties agreed that the federal compliance order should be negotiated first and, because the federal and state orders resolving the respective permit appeals must ultimately be consistent with one another, development of the state order could then follow rapidly thereafter based on the federal order.

Since the filing of the June 14, 2013 Status Report, the Region and UMass Boston can report that they have resolved the legal and technical issues that remained as of that date and, consequently, have largely finalized the federal compliance order. It has become clear, however, in part due to vacation schedules and the impending July 4th long weekend, that additional time is required to allow for final coordination with MassDEP before execution of the federal order is advisable. Accordingly, the parties seek an extension of the stay in order to provide sufficient time for MassDEP to review and

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Motion to Stay the Proceedings, in connection with In re University of Massachusetts Boston, NPDES Appeal No. 13-04, was sent to the following persons in the manner indicated:

By Electronic Filing:

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
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U.S. EPA East Building, Room 3334
Washington, DC 20004

By electronic mail, by agreement between the parties:

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Dated: June 28, 2013

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