



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA ELECTRONIC FILING

September 22, 2015

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

RE: City of Nashua Wastewater Treatment Facility
NPDES Permit Appeal No. 15-06; NPDES Permit No. MA0100170

Dear Ms. Durr:

Please find a Joint Third Motion to Stay the Proceedings in connection with NPDES Appeal No. 15-06.

Sincerely,

Samir Bukhari
US Environmental Protection Agency
Office of Regional Counsel, Region I
5 Post Office Square - Suite 100
Mail Code: ORA 18-1
Boston, MA 02109-3912
Tel: (617) 918-1095
Fax: (617) 918-0095
Email: bukhari.samir@epa.gov

Enclosures

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

)	
In the Matter of:)	
)	
City of Nashua)	
Wastewater Treatment Facility)	NPDES Appeal No. 15-06
)	
NPDES Permit No. NH0100170)	
)	

THIRD JOINT MOTION TO STAY THE PROCEEDINGS

I. Background

On April 13, 2015, the City of Nashua, New Hampshire filed a Petition for Review (“Petition”) with the Environmental Appeals Board (“Board”) requesting review of certain conditions of a National Pollutant Discharge Elimination System (“NPDES”) permit issued by Region 1 of the United States Environmental Protection Agency (“Region”) authorizing discharges of wastewater effluent from the City’s Wastewater Treatment Facility to the Merrimack River, as well as from nine Combined Sewer Overflows to the Merrimack and Nashua Rivers.

On July 7, 2015, the City and Region filed a joint motion requesting the Board to stay proceedings in the case to allow the parties to pursue settlement discussions. The Board granted the motion, ordering the parties to file a joint status report by August 5, 2015, and staying the proceedings until August 14, 2015. *See Order Granting Stay of Proceedings* at 2 (July 5, 2015).

The parties subsequently filed a Joint Status Report and Second Motion to Stay the Proceedings (July 31, 2015), in which they described the status of the settlement negotiations and requested an additional 45 day stay to allow sufficient time for, *inter alia*, the City to develop its counter offer to the Region's most recent settlement communication. The Board granted a stay until September 28, 2015, and directed the parties to file a status report no later than September 14, 2015, and to recommend steps to efficiently resolve the Petition. *See Order Extending Stay of Proceedings* at 2 (August 13, 2015).

The parties timely filed this status report, and informed the Board that on September 9, 2015, the City had transmitted a written counter offer to the Region. The parties described several actions they would take prior to expiration of the stay to facilitate an efficient resolution of this matter. This included a commitment by the Region to immediately commence its review of the counter offer. The parties also committed to convene to a meeting to attempt a resolution of any remaining issues in dispute. *See Joint Status Report* at 2 (September 14, 2015).

II. Grounds for Extending the Stay

The Region is reviewing the City's counter offer and is preparing a response in advance of a meeting between the parties that has been scheduled for September 28, 2015, the final day of the stay. While the parties will work diligently to resolve their outstanding differences at this meeting, based on the nature of the remaining issues, there will likely need to be an additional exchange of information between the parties' respective technical teams after the meeting. In order to conclude these negotiations in

an orderly manner, the parties request that the Board extend the stay in these proceedings for an additional fourteen (14) days, until Monday, October 12, 2015. The parties propose to file a status report and/or motion by this date that will advise the Board of the outcome of the negotiations and to recommend next steps.

Dated: September 22, 2015

Respectfully submitted,

U.S. EPA – Region 1

City of Nashua

Samir Bukhari, Esq.
Michael Curley, Esq.
Office of Regional Counsel
5 Post Office Square, Suite 100
Mailcode: ORA18-1
Boston, MA 02109-3912
Tel: (617) 918-1095
Fax: (617) 918-0095
E-mail: bukhari.samir@epa.gov

Sherilyn Burnett Young, Esq.
Marcia Brown, Esq.
Rath, Young and Pignatelli, P.C.
One Capital Plaza
Concord, NH 03302-1500
Tel: (603) 226-2600
Fax: (603) 226-2700
E-mail: sby@rathlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Third Joint Motion to Stay the Proceedings, in connection with In re City of Nashua Wastewater Treatment Facility, NPDES Appeal No. 15-06, 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
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

By Electronic Mail and U.S. Mail:

Sherilyn Burnett Young, Esq.
Marcia Brown, Esq.
Rath, Young and Pignatelli, P.C.
One Capital Plaza
Concord, NH 03302-1500
Tel: (603) 226-2600
Fax: (603) 226-2700
E-mail: sby@rathlaw.com

Dated: September 22, 2015

Samir Bukhari, Esq.
US Environmental Protection Agency
Office of Regional Counsel, Region 1
5 Post Office Square - Suite 100
Mail Code: ORA18-1
Boston, MA 02109-3912
Tel: (617) 918-1095
Fax: (617) 918-0095
E-mail: Bukhari.Samir@epa.gov