



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

Boston, MA 02109-3912

VIA ELECTRONIC FILING

February 13, 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: In the Matter of General Electric Aviation (NPDES Permit No. MA0003905);
NPDES Permit Appeal No. 14-03;

Dear Ms. Durr:

Please find enclosed EPA Region 1 and General Electric Aviation's, "Joint Settlement Negotiations Status Report and Motion to Continue the Stay of this Permit Appeal Proceeding," and an accompanying Certificate of Service in connection with NPDES Appeal No. 14-03.

Thank you for your assistance with the filing of this pleading with EPA's Environmental Appeals Board.

Sincerely,

Mark A. Stein /s/

Mark A. Stein

Senior Assistant Regional Counsel

US Environmental Protection Agency

Office of Regional Counsel, Region 1

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Enclosures

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

In the Matter of:)	
)	
General Electric Aviation)	NPDES Appeal No. 14-03
)	
NPDES Permit No. MA0003905)	
)	

**JOINT SETTLEMENT NEGOTIATIONS STATUS REPORT AND MOTION TO
CONTINUE THE STAY OF THIS PERMIT APPEAL PROCEEDING**

In accordance with the Environmental Appeals Board’s (“Board”) Order dated December 16, 2014, Region 1 of the United States Environmental Protection Agency (“Region 1” or “the Region”) and General Electric Aviation (“GE”) respectfully file this Joint Settlement Negotiations Status Report and Motion to Continue the Stay of This Permit Appeal Proceeding. More specifically, in light of substantial additional progress in the parties’ settlement negotiations, as reported below, the parties jointly move that the Board (a) extend the current stay of this permit appeal proceeding until May 4, 2015 (*i.e.*, by sixty (60) days), to allow the parties to maintain their focus on the current settlement negotiations, (b) require the parties to submit another settlement negotiations status report by no later than April 15, 2015. The bases for this motion are set forth below.

BACKGROUND

On September 30, 2014, Region 1 issued National Pollutant Discharge Elimination System (“NPDES”) Permit No. MA0003905 to GE. On October 30, 2014, GE filed a petition with the Board requesting review of certain conditions of the permit.

On November 7, 2014, Region 1 and GE jointly moved the Board to stay the proceeding to allow the parties time to pursue settlement negotiations. On November 13, 2014, the Board issued an Order staying the proceeding until January 2, 2015, and directing the Region, in consultation with GE, to file a report on the status of settlement negotiations by December 15, 2014. In addition to filing the status report, the parties requested an extension of the stay to allow continued focus on the negotiations in light of progress in the negotiations up to that point. On December 16, 2014, the Board issued an Order granting the parties' request, staying the proceeding until March 3, 2015, and directing the Region, in consultation with GE, to file a report on the status of settlement negotiations by February 13, 2015.

STATUS OF SETTLEMENT NEGOTIATIONS

Since the Board's December 16, 2014, order extending the stay of these proceedings, the parties, along with the Massachusetts Department of Environmental Protection ("MassDEP"), have put a major effort into negotiations attempting to resolve this permit appeal without further litigation. The parties have held additional negotiations sessions, have prepared and exchanged additional written materials, and have carried out a site visit to the GE facility. In addition, both Region 1 and GE have had substantive discussions with an additional entity, Lynnway Associates, LLC (Lynnway), which purchased part of the GE property after Region 1 issued GE the NPDES permit that is at issue in this appeal. Moreover, Region 1 sent Lynnway an information request letter pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a), and has received and reviewed Lynnway's response.

Region 1, MassDEP, and GE agree that their settlement negotiations have continued to make significant progress. In this regard, the parties have agreed on how to resolve a substantial number of additional issues since our last status report. Although the permit appeal in this case raises a substantial number of issues, some complex and others straightforward, only a small set of issues remain to be worked out. These remaining issues are, however, fraught with some difficulty and may require the involvement of Lynnway to fully resolve. The parties are presently exploring several options for resolving these issues and believe that the requested extension of the stay of this proceeding will provide the time needed to determine whether such resolution is possible. Conversely, the parties believe that lifting the stay, which would require the Region to focus its effort on responding to the petition, would interfere with the parties' ability to resolve the remaining appeal issues.

In sum, the parties remain optimistic that a full settlement of this permit appeal can be achieved and that the expenditure of the Board's adjudicative resources and the parties' litigation resources can be avoided. Additional time is needed, however, during which the parties can focus on the negotiations in order to try to achieve this goal.

CONCLUSION

For the reasons set forth above, and in the interest of promoting judicial economy and conserving public and private resources, the parties respectfully request that the Board order:

- (1) a continued stay of these proceedings until May 4, 2015; and
- (2) the parties to jointly or independently file a settlement negotiations status report(s) with the Board by April 15, 2015.

Respectfully submitted,

U.S. EPA – Region 1

General Electric Aviation

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Dated: February 13, 2015

CERTIFICATE OF SERVICE

I, Mark A. Stein, hereby certify that on February 13, 2015, a copy of EPA Region 1 and General Electric Aviation's "Joint Settlement Negotiations Status Report and Motion to Continue the Stay of this Permit Appeal Proceeding," in the matter of General Electric Aviation (NPDES Permit No. 0003905), NPDES Appeal No. 14-03, was served on 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 Transmission (as agreed upon):

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Dated: February 13, 2015

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