



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

VIA ELECTRONIC FILING

November 7, 2014

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: General Electric Aviation
NPDES Permit Appeal No. 14-03; NPDES Permit No. MA0003905**

Dear Ms. Durr:

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

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

Sincerely,

A handwritten signature in blue ink that reads "Mark A. Stein".

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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 MOTION TO STAY PERMIT APPEAL PROCEEDING

Respectfully, Region 1 of the United States Environmental Protection Agency ("Region 1" or "the Region") and General Electric Aviation ("GE") jointly move that the Environmental Appeals Board ("Board") stay the above-captioned proceeding until December 31, 2014, to allow the parties time to pursue settlement negotiations. Accordingly, the parties also move that the Board order that the due date for Region 1 to file its response to the petition for review (and the certified index to the administrative record) is moved to January 30, 2015, and that the parties be required to file a joint (or separate) settlement status report(s) with the EAB by December 15, 2014. 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. Under 40 C.F.R. §§ 124.19(b)(2) and 124.20(a) and (c), the Region's response to the

petition, a certified index of the administrative record for the permit and relevant portions of the record, are due to be filed with the Board by December 3, 2014.

REQUESTED RELIEF AND GROUNDS FOR SUCH RELIEF

Since GE filed its petition for review, counsel for the parties have talked and agreed that a negotiated resolution of some or all of the issues raised in the petition is possible in this case and have agreed to enter into settlement negotiations. The parties also anticipate that the Massachusetts Department of Environmental Protection (“MassDEP”) will participate in the settlement negotiations because Region 1 jointly issued the NPDES permit with MassDEP,¹ and because GE has also – in concurrent state administrative proceedings – submitted requests to MassDEP for adjudicatory hearings regarding both (1) the state’s permit under state law, and (2) the state’s water quality certification issued by MassDEP under section 401(a)(1) of the Clean Water Act, 33 U.S.C. § 1341(a)(1), in connection with GE’s new federal NPDES permit.

While the permit appeal raises a significant number of issues, the parties believe, as stated above, that settlement negotiations may be able to resolve some or all of these issues. Such a full or partial resolution of the case would conserve the Board’s resources, and is also likely to conserve the resources of Region 1 and EPA Headquarters, which the Region coordinates with on litigation and settlements, the MassDEP and GE. To try to achieve these benefits, however, the requested stay and re-scheduling of the potential due date for the response to the petition is necessary because Region 1 will not be able both to prepare its response by the current due date of December 3, 2014, and to engage in

¹ The Board is well familiar with Region 1 and MassDEP’s typical practice of jointly issuing NPDES permits to facilities in Massachusetts. See, e.g., *Error! Main Document Only.In re Avon Custom Mixing Services, Inc.*, 10 E.A.D. 700, 703 (EAB 2002).

meaningful settlement negotiations. In addition, given the number of issues in play, the number of parties involved, and the fact that out-of-state travel will be required for certain of GE's representatives to attend face-to-face negotiations, the parties currently anticipate needing the requested stay until December 31, 2014, to provide enough time to try to complete the negotiations.

In order to keep the Board apprised of the status of the negotiations, the parties propose to file a settlement negotiations status report with the Board by December 15, 2014. This report will describe the progress of negotiations and provide the Board with the parties' views as to whether full or partial settlement has been or appears likely to be achieved, whether it may be appropriate to continue the stay to allow further settlement negotiations, or whether a new due date should be set for the Region's response to the petition. At the same time, if settlement negotiations have broken down at any point prior to December 15, 2014, the parties will inform the Board of that fact and Region 1 will file a motion requesting an appropriate new due date for filing its response to the petition.

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 stay of these proceedings until December 31, 2014,
- (2) a delay until January 30, 2015, of the deadline by which Region 1 must file its response to the petition, the certified index of the administrative record for the permit and relevant portions of the record, and

- (3) the parties to jointly or independently file a settlement negotiations status report with the Board by December 15, 2014.

Respectfully submitted,

U.S. EPA – Region 1

General Electric Aviation



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Dated: November 7, 2014

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2014, a copy of EPA Region 1 and General Electric Aviation's Joint Motion to Stay 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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