



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA ELECTRONIC FILING

December 15, 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: 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,

A handwritten signature in blue ink, appearing to read "Mark A. Stein", is written over a horizontal line.

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 Permit No. MA0003905)
_____)

NPDES Appeal No. 14-03

**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 November 13, 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.

In addition, in light of significant progress in the negotiations, the parties also jointly move that the Board (a) extend the current stay of this permit appeal proceeding by sixty (60) days (i.e., until March 3, 2015) to allow for further negotiations seeking resolution of some or all of the issues presented in this appeal, and (b) require the parties to submit another settlement negotiations status report by no later than February 16, 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.

STATUS OF SETTLEMENT NEGOTIATIONS

The permit appeal in this case raises a substantial number of issues, some of which are complex and others of which are straightforward. Since the Board's order staying the proceeding, the parties, along with the Massachusetts Department of Environmental Protection ("MassDEP"), have had two lengthy negotiation sessions and have also prepared and exchanged substantial written materials both to share information and to propose ideas about how various issues might be settled.

Region 1, MassDEP, and GE believe that their settlement negotiations have made significant progress. Indeed, the parties have agreed on how to resolve a number of the issues presented in the appeal. For other issues, however, the parties have agreed on possible approaches to settlement, but need to develop and share further information and then further evaluate the issues before determining whether and how the issues may be settled.

As a result, the parties have become optimistic that a full settlement can be achieved in this case, but additional time is needed during which the parties can focus on the negotiations in order to try to achieve this goal.

**JOINT MOTION FOR CONTINUATION OF THE CURRENT STAY OF
THE PROCEEDINGS AND GROUNDS FOR SUCH RELIEF**

Region 1 and GE hereby jointly move that the Board extend the current stay of these permit appeal proceedings from January 2, 2015, to March 3, 2015. The parties also request that the Board require submission of a second Settlement Negotiations Status Report by no later than February 16, 2015, so that the Board may keep apprised of how the negotiations are proceeding.

The grounds for this motion are discussed below. As stated above, the parties have become optimistic that they may be able to settle all, and certainly many, of the issues presented in this permit appeal. Indeed, they have agreed on how to resolve a significant number of issues already. Additional time is needed, however, to allow the parties to try to agree, if possible, how resolution of some of the more complicated issues can best be achieved. Therefore, the parties jointly move that the Board extend the current stay of the proceeding by sixty (60) days to provide time for the additional negotiations. If the stay of this proceeding is, instead, lifted, Region 1 would need to focus entirely on preparing its response to the petition for review. The Region does not have adequate resources to simultaneously prepare a response to the petition and give adequate attention to these settlement negotiations. As a result, the parties fear that the settlement negotiations would likely founder.

Successful settlement negotiations would prevent unnecessary litigation and would, thereby, conserve resources of the Board, Region 1, EPA Headquarters, the MassDEP and GE. The requested 60-day continuation of the stay is appropriate because it is enough time to give the parties a chance to resolve the more complicated issues, but

it is also a short enough time to demand that the parties sustain their attention to the negotiations and not allow them to languish.

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 March 3, 2015; and
- (2) the parties to jointly or independently file a settlement negotiations status report(s) with the Board by February 16, 2015.

Respectfully submitted,

U.S. EPA – Region 1

General Electric Aviation



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Dated: December 15, 2014

CERTIFICATE OF SERVICE

I, Mark A. Stein, hereby certify that on December 15, 2014, 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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