



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY RECEIVED
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023
U.S. E.P.A.

June 1, 2006

2006 JUN -5 PM 2: 08

ENVIR. APPEALS BOARD

Eurika Durr, Clerk of the Board (MC 1103B)
Environmental Appeals Board
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue NW
Washington, DC 20460

Jamison E. Colburn
Associate Professor of Law
Western New England College School of Law
1215 Wilbraham Road
Springfield, MA 01119

John P. Curtin, Esq.
Boston & Maine Corporation
Iron Horse Park, High Street
North Billerica, MA 01862

Re: Notice of Uncontested and Severable Conditions
NPDES Permit No. MA0000272
NPDES Appeal No. 05-17
Boston & Maine Corporation (East Deerfield, Massachusetts)

Dear Ms. Durr, Prof. Colburn, and Mr. Curtin:

On September 23, 2005, EPA reissued a National Pollutant Discharge Elimination System Permit, No. MA0000272 ("Permit"), to the Boston & Maine Corporation ("Permittee"). The Permit superseded the prior permit issued by the Region on November 19, 1975. On October 27, 2005, the Connecticut River Watershed Council, Inc., and Jamison E. Colburn ("Petitioners") filed a petition for review with the Environmental Appeals Board ("Board"). By order of the Board, the proceedings are currently stayed until July 3, 2006 to allow the parties to resolve the Petition by settlement.

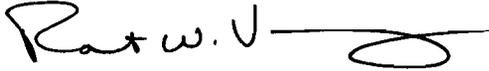
The Petition alleges that, with respect to the five stormwater outfalls (Outfalls 001, 002, 003, 005 and 006), EPA erred by (1) not including numeric effluent limits in the Permit, (2) not requiring more extensive monitoring, (3) not requiring that the Storm Water Pollution Prevention Plan be made subject to public comment; and (4) inadequately discharging its duties to ensure, after consultation with appropriate federal wildlife agencies, that the permit issuance is not likely to jeopardize endangered or threatened species.

The Petition does not, however, request that any of the specific conditions in the Permit be modified or deleted. Therefore, pursuant to 40 C.F.R. § 124.16(a)(2)(ii), I have determined that the Petition does not contest any specific conditions of the Permit.

Pursuant to 40 C.F.R. § 124.16(a)(2)(ii), this letter notifies you of my determination that all of the specific conditions of the Permit are uncontested. Thus, all of the conditions will become fully effective enforceable obligations effective thirty days from the date of this notice, as provided by 40 C.F.R. § 124.16(a)(2)(i).

If you have any questions regarding this correspondence, please feel free to contact Ronald Fein, the Region's legal counsel in this matter, at 617-918-1040, or Steven Calder, in our Office of Ecosystem Protection, at 617-918-1744.

Sincerely,

A handwritten signature in black ink, appearing to read "R. W. Varney", with a long horizontal flourish extending to the right.

Robert W. Varney
Regional Administrator

cc: Steven Calder, EPA
Damien Houlihan, EPA
David Webster, EPA
Roger Janson, EPA
Linda Murphy, EPA
Ronald Fein, EPA
Denny Dart, EPA
Paul Hogan, MassDEP



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

**ONE CONGRESS STREET SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023**

RECEIVED
U.S. E.P.A.

JUL -3 AM 10:46

ENVIR. APPEALS BOARD

June 28, 2007

VIA CERTIFIED MAIL

Eurika Durr, Clerk of the Board (MC 1103B)
Environmental Appeals Board
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-001

Thomas F. Irwin, Esq.
Conservation Law Foundation
27 North Main Street
Concord, NH 03301

John P. Bohenko, City Manager
City Hall
One Junkins Avenue
Portsmouth, NH 03801

**Re: Notice of Contested and Uncontested Conditions of NPDES Permit No. NH0100234
City of Portsmouth Peirce Island Wastewater Treatment Plant
NPDES Appeal No. 07-13**

Dear Ms. Durr, Mr. Irwin, and Mr. Bohenko:

On May 3, 2007, the Conservation Law Foundation ("CLF") filed a Petition for Review of NPDES permit No. NH0100234 ("Permit") with the Environmental Appeals Board ("Board") pursuant to 40 C.F.R. § 124.19(a). The Permit had been reissued to the City of Portsmouth, New Hampshire on April 10, 2007 by the New England Regional Office of the U.S. Environmental Protection Agency ("Region"). The Permit superseded the permit issued by the Region on January 18, 1985.

In its Petition, CLF contests the Region's failure to impose permit conditions on the wastewater discharge related to total nitrogen. CLF also objects to what it asserts is the Region's intent,

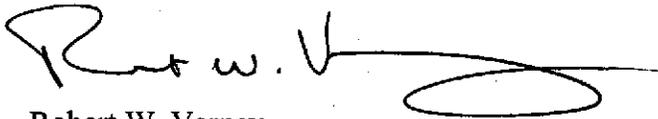
through an enforcement order and/or judicial consent decree, to establish a schedule to construct and implement secondary treatment which extends beyond the term of the permit.

Pursuant to 40 C.F.R. §§ 124.16(a)(2)(ii) and 124.60(b), contested permit conditions, and uncontested conditions that are not severable from contested conditions, are stayed upon the filing of a petition for review until final agency action under 40 C.F.R. § 124.19(f). In this case, I find that none of the conditions in the permit is contested. Rather, CLF is contesting the absence of a condition, in the case of total nitrogen, and is objecting to an enforcement strategy that in its view will give the City too much time to construct and implement secondary treatment.

All conditions of the Permit are uncontested and severable from the issues raised in CLF's petition for review. Therefore, none of the conditions are stayed, and all will become fully effective enforceable obligations of the Permit on August 1, 2007, pursuant to 40 C.F.R. §124.16(a)(2)(i).

If you have any questions regarding this correspondence, please feel free to contact Ann Williams, the Region's legal counsel in this matter, at 617-918-1097, or Damien Houlihan, in the Region's Office of Ecosystem Protection, at 617-918-1586.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Varney", with a large, stylized flourish at the end.

Robert W. Varney
Regional Administrator

cc: Harry Stewart, NH DES
Peter H. Rice, P.E., City Engineer
E. Tupper Kinder, Esq., Nelson, Kinder, Mosseau & Saturley, PC
Damien Houlihan, EPA
Ann Williams, Esq., EPA
Denny Dart, EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
Five Post Office Square, Suite 100
Boston, MA 02109-3912

DEC 28 2009

VIA CERTIFIED MAIL

Eurika Durr, Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Lisa Peterson, Commissioner
City of Cambridge
Department of Public Works
147 Hampshire Street
Cambridge, MA 02139

**RE: Notice of Contested and Uncontested Conditions
NPDES Permit No. MA0101974
City of Cambridge, Department of Public Works
NPDES Appeal No. 09-17**

Dear Ms. Durr and Ms. Peterson:

On November 3, 2009, Stephen H. Kaiser, PhD, filed a petition for review of NPDES Permit No. MA0101974 ("Permit") with the Environmental Appeals Board ("Board"), pursuant to 40 CFR § 124.19(a). The U.S. Environmental Protection Agency, Region 1, had reissued the Permit to the City of Cambridge, Department of Public Works on September 30, 2009. The Permit superseded the permit issued by the Region on March 26, 1993. On December 3, 2009, the City of Cambridge ("City") moved to intervene as a party respondent in this matter. By Order dated December 9, 2009, the Board granted the City's motion.

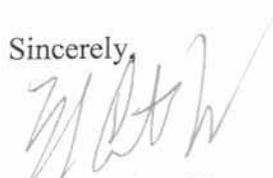
In his petition, Mr. Kaiser contests the Region's alleged failure to sufficiently limit combined sewer overflow ("CSO") inflow from Alewife Brook floodwaters in the Permit. Pursuant to 40 CFR §§ 124.16(a)(2)(ii) and 124.60(b), contested permit conditions, and uncontested conditions that are not severable from contested conditions,

are stayed upon the filing of a petition for review until final agency action under 40 CFR § 124.19(f). In this case, I find that none of the conditions in the Permit are contested. Rather, Mr. Kaiser is contesting the absence of conditions related to CSO inflow and flood levels in Alewife Brook.

All conditions of the Permit are uncontested and severable from the issues raised in Mr. Kaiser's petition for review. Therefore, none of the conditions are stayed, and all will become fully effective, enforceable obligations of the Permit on February 1, 2010, pursuant to 40 CFR § 124.16(a)(2)(i).

If you have any questions regarding this correspondence, please feel free to contact Amanda Helwig, the Region's legal counsel in this matter, at (617) 918-1180, or Brian Pitt, the Region's Manager of the Municipal Permits Branch, at (617) 918-1875.

Sincerely,



H. Curtis Spalding
Regional Administrator

cc: Stephen H. Kaiser, PhD.
Hetal Dhagat, Esq., Anderson & Kreiger
Amanda J. Helwig, Esq., U.S. EPA
Brian Pitt, U.S. EPA
Denny Dart, U.S. EPA

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of REGION IX'S ATTACHMENT TO REPLY TO PETITIONERS' RESPONSE IN OPPOSITION TO MOTION TO PARTIALLY DISMISS PETITION AND ESTABLISH REVISED BRIEFING SCHEDULE to be served by electronic mail upon the persons listed below.

Dated: October 22, 2018

/S/ Thomas M. Hagler

Thomas M. Hagler

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EPA Region 9 (MC ORC-2)
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