

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

TOWN OF WOLFEBORO)	
)	
Plaintiff,)	Civil No. 1:12-cv-00130-JD
v.)	
)	
WRIGHT-PIERCE,)	
)	
Defendant.)	

**DEFENDANT WRIGHT-PIERCE'S MOTION TO
AMEND THE JOINT DISCOVERY PLAN**

The Defendant, Wright-Pierce ("Wright-Pierce"), respectfully submits this motion to extend the deadlines for completion of discovery and depositions and the commencement of trial by approximately sixty (60) days. In further support, Wright-Pierce states the following:

1. The Plaintiff, Town of Wolfeboro ("Wolfeboro"), filed the Complaint in this action on April 2, 2012. The case involves complex issues concerning a wastewater treatment disposal facility ("WWTF") constructed in Wolfeboro, New Hampshire. Wolfeboro seeks damages in excess of \$10 million.

2. On August 3, 2012, the Parties submitted a proposed joint discovery plan ("Joint Discovery Plan").

3. On August 17, 2012, the Court approved the Joint Discovery Plan, which established a discovery deadline of June 1, 2013.

4. On May 10, 2013, the Parties filed a Joint Motion to Continue and Extend the Deadlines for Discovery, Mediation, and Trial ("Motion To Extend Deadlines"). Specifically, the Parties requested an extension until November 1, 2013 to complete discovery.

5. On May 13, 2013, this Court entered an Order granting the Motion to Extend

Deadlines, and set additional deadlines as follows:

Summary Judgment Motions due	October 18, 2013
Pretrial Statements due	January 16, 2014
Objections to Pretrial Statements due	January 30, 2014
Final Pretrial Conference	February 6, 2014
Trial	February 19, 2014.

6. Since receiving the amended Joint Discovery Plan in May of this year, Wright-Pierce has been trying to persuade Wolfeboro to agree to mediate the case, prior to the commencement of costly depositions. Given the complexity of the matter and the alleged damages of \$10 million, the Parties anticipate conducting as many as thirty depositions (several of which can not be completed in one day), including expert witness depositions. Though Wolfeboro has not stated that it will not participate in mediation, it has not agreed to schedule a session. Not giving up hope that this matter can potentially be resolved without the need for depositions and a trial, Wright-Pierce was able to convince Wolfeboro to meet to discuss a proposed remedial plan designed by Wright-Pierce's engineering expert. This meeting was held on August 22, 2013. The Parties are now scheduled to meet with the New Hampshire Department of Environmental Services ("NHDES") on October 7, 2013 to discuss the permitability of Wright-Pierce's remedial plan.

7. Meanwhile, since May 2013 the Parties have also been engaged in finalizing written discovery. To date, written discovery has not been completed, despite the best efforts of the Parties. The Parties owe one another responses to requests for admissions, and Wolfeboro is seeking to obtain email attachments it claims it is entitled to from Wright-Pierce. The Parties have been trying to resolve the issue of the email attachments for several weeks, to no avail, and

Wright-Pierce anticipates that Wolfeboro may move to compel them.

8. With regard to depositions, in August the parties agreed to dates for approximately 16 of the roughly 30 depositions that may be taken. To date, only one individual has been deposed, and her deposition was not completed. That deponent's continued deposition scheduled to occur on October 2, 2013 was cancelled by Wolfeboro as a result of the e-mail dispute. A second deposition scheduled for last week was also cancelled by Wolfeboro for the same reason. Unless and until the email dispute is fully resolved, many of the fact witness depositions scheduled during the upcoming weeks will have to be rescheduled. Some of the upcoming fact witness depositions may also have to be rescheduled because documents subpoenaed from non-parties on August 2, 2013 have still not been produced. The documents requested are those from the NHDES (who issued the permit for the WWTF), Woodard & Curran, Inc. (the operator of the WWTF), and Weston & Sampson, Inc. (who performed a peer review of Wright-Pierce's design and later designed a portion of the WWTF), and are critical to the defense of Wright-Pierce and for the taking of these depositions. Counsel for W&S has represented that it will produce the documents during the week of October 7, and W&C's records are expected this week. It will then take Wright-Pierce some time to review, analyze and summarize these documents, which are expected to be expansive.

9. In light of the outstanding discovery issue and subpoena requests, it will be impossible to complete depositions by the current deadline of November 1, 2013. In addition to these reasons, defense counsel has several other conflicts in the coming weeks which prevent them from being able to complete depositions under the current Joint Discovery Plan. Defense counsel's law firm is moving its office and counsel will not have access to their offices, computers or files from October 11, 2013 through October 15, and even after that will need a

few days to organize their new office so that it is ready to accommodate depositions. In November, Wright-Pierce's lead counsel has limited availability to reschedule depositions due to a pre-planned family vacation to Disney World the beginning of November, and involvement in the mediation of a \$188M claim in New York. Plaintiff's counsel is scheduled to be away the last ten days of November.

10. Once depositions have concluded, hopefully by the end of November, counsel for Wright-Pierce is hopeful that Wolfeboro will agree to schedule a mediation. If that is the case, the Parties will need time to schedule and conduct the mediation.

11. For the above reasons, Wright-Pierce respectfully requests this Court grant an extension of the discovery and deposition deadline to **January 6, 2014** and of the trial date to **April 7, 2014** (both extensions are approximately 60 days, give or take a few days to avoid holidays and school vacations).¹

WHEREFORE, Wright-Pierce respectfully requests that this Court GRANT this motion and amend the Joint Discovery Plan to reflect a discovery and deposition deadline of **January 6, 2014** and a trial date of **April 7, 2014**.

Respectfully submitted,

WRIGHT PIERCE,
By its attorneys,

/s/ Kelly Martin Malone

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Dated: October 4, 2013

¹ Counsel for Wolfeboro has indicated that Wolfeboro is available for trial on April 7, 2013.

CERTIFICATE OF SERVICE

In accordance with Local Rule 5.4(b), I hereby certify that this document filed through the ECF system on October 4, 2013 will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non registered participants.

/s/ Kelly Martin Malone

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