

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

\_\_\_\_\_) )  
In re: ) )  
 ) )  
South Essex Sewerage District ) NPDES Appeal No. 01-13  
 ) )  
NPDES Permit No. MA 0100501 ) )  
 ) )  
\_\_\_\_\_) )

**ORDER DISMISSING PETITION FOR REVIEW**

In a petition filed March 21, 2001, the South Essex Sewerage District ("Petitioner") seeks review of a National Pollutant Discharge Elimination System ("NPDES") permit decision made by U.S. Environmental Protection Agency Region I ("Region") on February 9, 2001. The decision approved the reissuance of an NPDES permit<sup>1</sup> ("Permit") to Petitioner to replace its existing permit.

Petitioner objects to the flow and residual chlorine limits, the infiltration/inflow requirements, and the ambient water quality monitoring program contained in the Permit. See Petition for Review at 2-12.

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<sup>1</sup> Under the Clean Water Act ("CWA"), persons who discharge pollutants from point sources into waters of the United States must obtain a permit in order for the discharge to be lawful. See CWA § 301, 33 U.S.C. § 1311. The NPDES is the principal permitting program under the CWA. 33 U.S.C. § 1342.

The Region requested and received two extensions of time to file a response to the Petition for Review, since the parties were engaged in settlement discussions that could resolve Petitioner's appeal without further use of the resources of the Board. See Order Granting Extension of Time (May 8, 2001); Order Granting Extension of Time (July 12, 2001).

By motion filed September 14, 2001, the Region requests that the Board dismiss Petitioner's Petition for Review. See Status Report and Motion to Dismiss Petition for Review (Sep. 14, 2001). The basis for this motion is that the Region, after failing to reach a settlement with Petitioner, has withdrawn the contested permit conditions pursuant to 40 C.F.R. § 124.19(d). *Id.* at 1.

The Region represents that it intends to propose permit modifications to replace the withdrawn conditions, and that such modifications will proceed through the same public notice and comment procedures applicable to permit modifications subject to 40 C.F.R. Part 124. *Id.* at 2. In the interim, the Region represents that all remaining uncontested permit conditions will become fully enforceable obligations pursuant to 40 C.F.R. § 124.16(a)(2)(i). *Id.* Inasmuch as the Region's withdrawal of

the contested permit conditions renders the Petition for Review moot, this motion is hereby GRANTED.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: \_\_\_\_\_ /s/\_\_\_\_\_  
Ronald L. McCallum  
Environmental Appeals Judge

Dated: 10/29/01

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Order Dismissing Petition for Review in the matter of the South Essex Sewerage District, NPDES Appeal No. 01-13, were sent to the following persons in the manner indicated:

By Facsimile &  
First Class Mail:

Rona Gregory  
Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region I  
One Congress Street, Suite 1100  
Boston, MA 02114-2023  
(617) 918-1029

John E. Darling  
Serafini, Serafini, Darling & Correnti, LLP  
63 Federal Street  
Salem, MA 09170  
(978) 741-4683

Dated: 10/29/01

\_\_\_\_\_/s/  
Annette Duncan  
Secretary