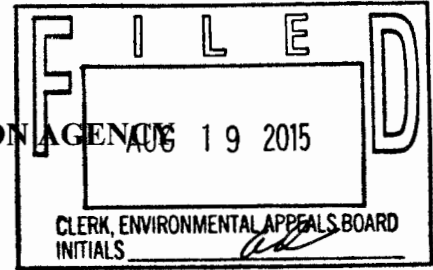


ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)

Battle Road Condominium Trust)
Wastewater Treatment Facility)

NPDES Permit No. MA0031658)

NPDES Appeal No. 15-09

ORDER DISMISSING PETITION AS MOOT

On July 6, 2015, the Battle Road Farm Condominium Trust (“Trust”), filed a petition seeking review of a National Pollutant Discharge Elimination permit issued by U.S. EPA Region 1 (the “Region”). The permit authorizes discharges from the Trust’s Wastewater Treatment Plant into headwater wetlands of the Shawsheen River. In its petition, the Trust challenges three discrete aspects of the permit: the monthly average total phosphorus effluent limit effective between April 1 and October 31, and the absence of compliance schedules for the total cadmium and total lead limits.

On July 30, 2015, the Region filed a notice of partial withdrawal notifying the Environmental Appeals Board (“Board”) that it is withdrawing the contested permit provisions – the total phosphorus limit “as well as the total cadmium and total lead limits insofar as they are not subject to schedules of compliance.” Notice of Partial Withdrawal and Notice of Uncontested and Severable Conditions NPDES Permit Appeal No. 15-09 at 2.¹ The Region explained that it would commence new draft permit proceedings to address the withdrawn

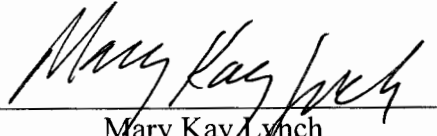
¹ Under the regulations that govern this permit proceeding, the Regional Administrator may, at any time prior to 30 days from the filing of its response and upon notification to the

conditions and related issues. Immediately thereafter, on July 31, 2015, the Region filed a motion requesting that the Board dismiss as moot the petition and representing that the Trust assented to the motion. Assented-to Motion to Dismiss the Petition for Review as Moot at 2 (July 31, 2015).

The Board acknowledges receipt of the Region's notice of partial withdrawal, which sets forth grounds for withdrawal. Because the permit conditions giving rise to the petition have been withdrawn, the petition before the Board is now moot and the Board dismisses the petition. This dismissal does not affect the Trust's right to challenge the changes to the permit arising from the permit modification process.

So ordered.²

Date: AUG 19 2015



Mary Kay Lynch
Judge, Environmental Appeals Board

Board, withdraw the permit, or portions of it, and prepare a new draft under 40 C.F.R. § 124.6. See 40 C.F.R. § 124.19(j). The Region in this case filed the appropriate notice of withdrawal before the 30-day deadline.

² The three-member panel deciding this matter is composed of Environmental Appeals Judges Leslye M. Fraser, Mary Kay Lynch, and Mary Beth Ward. 40 C.F.R. § 1.25(e)(1).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Dismissing Petition as Moot in the matter of Battle Road Condominium Trust, NPDES Appeal No. 15-09, were sent to the following persons in the manner indicated:


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Dated: AUG 19 2015


Annette Duncan
Secretary