

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

In re:	)	
Town of Marion, MA	)	NPDES Appeal No. 04-09
Permit No. MA0100030	)	

**ORDER DISMISSING PETITION FOR REVIEW**

By petition filed on September 7, 2004, the Town of Marion, Massachusetts (the “Town”) seeks review of a National Pollutant Discharge Elimination System (“NPDES”) permit issued by U.S. EPA Region I (the “Region”) on August 2, 2004. In its petition, the Town objects to provisions in the final permit that were not present in the draft permit. In particular, the Town objects to the lowering of the limitation for fecal coliform, the addition of parameters to be monitored, and the inclusion of an ambient water quality monitoring program. The Town requests that the permit be withdrawn and that the Region reissue a draft permit and fact sheet “so that the significantly revised permit can be subject to applicable public review procedures.” Petition for NPDES Permit Appeal (NPDES No. MA0100030) Town of Marion, Massachusetts at 1.

By motion filed on October 29, 2004, the Region represents that it has withdrawn the permit and that it intends to prepare a new draft permit for public notice and comment in accordance with the provisions of 40 C.F.R. § 124.19(d), which authorizes a Regional Administrator to withdraw a permit any time prior to the Board’s granting or denying a petition for review. In the interim, the Region represents that the limits and conditions in the Town’s prior permit will continue in effect until final Agency action on the new permit is completed.

Because the Region's withdrawal of the contested permit renders the Petition for Review moot, the Region's motion is granted and the Petition is hereby dismissed.

So ordered.

Dated: Nov. 1, 2004

ENVIRONMENTAL APPEALS BOARD

By: \_\_\_\_\_ /s/  
Edward E. Reich  
Environmental Appeals Judge

## CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Dismissing Petition for Review in the matter of Town of Marion, Massachusetts, NDPES Appeal No. 04-09, were sent to the following persons in the manner indicated:

First Certified Mail  
Return Receipt Requested:

John F. Dolan, Town Administrator  
Town of Marion  
2 Spring Street  
Marion, MA 02738-1519

Pouch Mail:

Linda M. Murphy, Director  
Office of Ecosystem Protection  
U.S. EPA Region I  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

Dated: Nov. 2, 2004

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