



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

RECEIVED
U.S. E.P.A.

2007 JAN 10 AM 9:57

ENVIR. APPEALS BOARD

JAN 04 2007

VIA CERTIFIED MAIL

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

Mr. Robert C. Zora
Superintendent of Public Works
Town of Marion
Department of Public Works
50 Benson Brook Road
Marion, Massachusetts 02738

**Re: Notice of Uncontested and Severable Conditions of NPDES Permit MA0100030
Town of Marion, Massachusetts
NPDES Appeal No. 06-15**

Dear Ms. Durr and Mr. Zora:

On November 2, 2006, the Town of Marion, Massachusetts ("Permittee") filed a petition for review of NPDES permit MA0100030 ("Permit") with the Environmental Appeals Board pursuant to 40 C.F.R. § 124.19(a). The Permit had been reissued to the Permittee on September 29, 2006 by the New England Regional Office of the U.S. Environmental Protection Agency ("Region"). The Permit supersedes the permit issued by the Region on September 30, 1998 ("Prior Permit").

Uncontested and Severable Conditions

In its petition, the Permittee contests: (i) the fecal coliform limit set forth in Part I.A.1; (ii) the flow proportional sampling condition set forth in footnote 5 of Part I.A.1; and (iii) the "addition of parameters to be monitored." For the purposes of this notice, the Region will assume the latter category consists of all monitoring requirements that have been changed between the draft and

Toll Free • 1-888-372-7341

Internet Address (URL) • <http://www.epa.gov/region1>


Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

final permit, including the fecal coliform monitoring requirement in Part I.A.1 and the biological monitoring requirement set forth in Part I.G. The limits and conditions contested by the Permittee are collectively referred to herein as the "Contested Conditions."

Pursuant to 40 C.F.R. §§ 124.16(a)(2)(ii) and 124.60(b), this letter notifies you of my determination that the Contested Conditions are stayed until final agency action under 40 C.F.R. § 124.19(f). All other conditions of the Permit are both uncontested and severable from the Contested Conditions. Consistent with 40 C.F.R. § 124.16(a)(2)(i), these conditions will become fully effective, enforceable obligations of the Permit on March 1, 2007. With respect to each of the Contested Conditions, the corresponding term, if any, in the Prior Permit shall remain in effect.

If you have any questions regarding this correspondence, please feel free to contact Samir Bukhari, the Region's legal counsel in this matter, at 617-918-1095, or Brian Pitt, in our Office of Ecosystem Protection, at 617-918-1875.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Varney", followed by a long horizontal line that ends in a large, stylized loop.

Robert W. Varney
Regional Administrator

cc:

Bill McConnell, CDM (via First Class Mail)

Glenn Haas, MA DEP (via Electronic Mail)

Paul Hogan, MA DEP (via Electronic Mail)

Roger Janson, EPA

Brian Pitt, EPA

Denny Dart, EPA