



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**Region 1 – New England**  
**5 Post Office Square, Suite 100**  
**Boston, MA 02109-3912**

**VIA ELECTRONIC FILING**

December 28, 2017

Eurika Durr  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1200 Pennsylvania Avenue, NW  
Mail Code 1103M  
Washington, DC 20460-0001

**RE: Barnhardt Manufacturing Co.**  
**NPDES Permit No. MA0003697; NPDES Appeal No. 17-07**

Dear Ms. Durr:

Please find "Petitioner's Motion for Leave to Withdraw the Petition and Joint Motion to Dismiss the Petition," and accompanying Certificate of Service, in connection with NPDES Appeal No. 17-07.

Sincerely,

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Joshua Secunda, Esq.  
US Environmental Protection Agency  
Office of Regional Counsel, Region 1  
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**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

	)	
In the Matter of:	)	
	)	
Barnhardt Manufacturing Co,	)	
	)	NPDES Appeal No. 17-07
	)	
NPDES Permit No. MA0003697	)	
	)	

**PETITIONER’S MOTION FOR LEAVE TO WITHDRAW  
THE PETITION AND JOINT MOTION TO DISMISS THE PETITION**

**I. BACKGROUND**

On September 19, 2017, Region 1 of the United States Environmental Protection Agency (“Region”) issued National Pollutant Discharge Elimination System Permit No. MA0003697 (“NPDES Permit”) to Barnhardt Manufacturing Co. (“Permittee” or “BMC”). On October 16, 2017, BMC timely filed a Petition for Review (“Petition”) with the Board requesting review of certain conditions of the NPDES Permit. On November 1, 2017, the parties jointly moved the Board to stay proceedings in order to facilitate settlement discussions. The Board granted the motion in order to allow the parties to discuss settlement. *Order Granting Joint Motion for Stay of Proceedings* (November 3, 2017).

**II. CAUSE FOR GRANTING MOTION**

The parties have settled their differences over the appeal by agreeing on Draft Permit Modification terms that address the issues raised in the Petition to Petitioner’s

satisfaction. The Region has agreed to publish the Draft Permit Modification for public notice and comment following withdrawal and dismissal of the Petition. Based on this agreement, the Permittee has agreed to immediately withdraw its Petition. Accordingly, the Permittee requests leave to withdraw its Petition, and the parties jointly request that the Board dismiss the Petition in its entirety, with prejudice, pursuant to 40 C.F.R. § 124.19(k). *See In the Matter of Town of Uxbridge Wastewater Treatment Facility*, NPDES Appeal 13-06 (April 15, 2014) (*Order Dismissing Petition for Review*).

### **III. REQUEST FOR RELIEF**

For the reasons set out above, and to conserve administrative and judicial resources, the parties respectfully request that the Board issue an order dismissing the Petition in its entirety, with prejudice.

Dated: December 28, 2017

Respectfully submitted,

U.S. EPA – Region 1

Barnhardt Manufacturing Company

/s/Joshua Secunda  
Joshua Secunda  
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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of Petitioner's Motion for Leave to Withdraw the Petition and Joint Motion to Dismiss the Petition, in connection with Barnhardt Manufacturing Company, NPDES Appeal No. 17-07, was sent to the following persons in the manner indicated:

By Electronic Filing:

Eurika Durr  
Clerk of the Board  
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Environmental Appeals Board  
1201 Constitution Avenue, NW  
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Washington, DC 20004  
202-233-0122  
Email: Clerk\_EAB@eab.gov

Via electronic mail, by agreement between the parties

For Barnhardt Manufacturing Co., Inc.:  
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Dated: December 28, 2017

/s/Joshua Secunda, Esq.\_\_\_\_\_

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