

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

In re:)	
City of Marlborough, Massachusetts (Westerly Wastewater Treatment Facility))	NPDES Appeal No. 21-04
NPDES Permit No. MA0100480)	

**ORDER GRANTING PETITIONER’S MOTION TO DISMISS PETITION FOR
 REVIEW**

On December 15, 2021, Petitioner, OARS, Inc., filed a motion to withdraw its petition to review National Pollutant Discharge Elimination System (NPDES) Permit No. MA0100480. Petitioner represents that it is moving for dismissal of its petition in light of a recent filing by the permit issuer, U.S. EPA Region 1, in which the Region indicates that it is withdrawing the “summer” (April 1-October 31) mass-based Total Phosphorus limit contained in the Final Permit at Part I.A.1. Petitioner’s Motion to Dismiss Petition for Review at 1 (“Pet.’s Mot.”) (filed Dec. 15, 2021); Notice of Permit Provision Withdrawal & Notice of Uncontested and Severable Permit Conditions at 2 (filed Dec. 15, 2021) (“Withdrawal”). Petitioner also bases its motion on the Region’s representations that: 1) it intends to prepare a new draft permit addressing the portion withdrawn; 2) until such time as a new permit addressing the withdrawn portion is issued, the corresponding portions of the prior permit shall remain in effect; 3) in issuing any such new permit, the Region proposes to regulate Total Phosphorus in concentration-based form; and 4) the Region intends to maintain Total Phosphorus limits in concentration-based form for all permittees on the Assabet River subject to the Assabet River Total Maximum Daily Load developed by the Massachusetts Department of Environmental Protection. Pet.’s Mot. at 1 (filed

Dec. 15, 2021); *see also* Withdrawal at 2. Petitioner represents that the Region does not oppose the motion. Pet.'s Mot. at 2.

Based on Petitioner's representations, the Board GRANTS the motion and DISMISSES the petition for review. *See* 40 C.F.R. § 124.19(k).

So ordered.¹

ENVIRONMENTAL APPEALS BOARD



Dated: December 17, 2021

By: _____

Aaron P. Avila
Environmental Appeals Judge

¹ The three-member panel deciding this matter is composed of Environmental Appeals Judges Aaron P. Avila, Mary Kay Lynch, and Kathie A. Stein.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **Order Granting Petitioner's Motion to Dismiss Petition for Review**, in the matter of *City of Marlborough, MA*, NPDES Appeal No. 21-04, were sent to the following persons in the manner indicated:

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Dated: Dec 17, 2021

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