



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
New England Region
Five Post Office Square -- Suite 100
Boston, Massachusetts 02109-3912

Via Electronic Mail – Read Receipt Requested

Sean M. Divoll
Commissioner of Public Works
City of Marlborough
135 Neil St.
Marlborough, MA 01752
dpw-dispatch@marlborough-ma.gov

**RE: City of Marlborough Westerly Wastewater Treatment Facility
NPDES Permit No. MA0100480; NPDES Appeal No. 21-04**

Dear Mr. Divoll:

In accordance with 40 C.F.R. § 124.19(m)(2)(i), I am notifying you of my final permit decision in connection with NPDES Permit No. MA0100480, which authorizes discharges by the City of Marlborough (“City”) from the Westerly Wastewater Treatment Facility.

Following issuance of the permit on October 25, 2021, the OARS, Inc. (“OARS”) timely petitioned EPA’s Environmental Appeals Board (“Board”) for review of the permit. EPA Region 1 issued a Notice of Uncontested and Severable Conditions and Withdrawal on December 15, 2021, placing those permit provisions that were not challenged into effect as of February 1, 2022. *Attachment A*.¹ The Region additionally withdrew the Total Phosphorus monthly average limit in the “summer” (April 1 – October 31), leaving in place the corresponding “summer” limit contained in the City’s prior NPDES permit issued on May 26, 2005. The remaining contested condition, the Total Phosphorus monthly average limit in the “winter” (November 1 – March 31), was stayed pending resolution of the permit appeal.² Also on December 15, 2021, OARS filed a motion to dismiss its petition with the Board.

On December 17, 2021, the Board granted OARS’ motion and dismissed the petition for review. Under 40 C.F.R. § 124.19(m)(2)(i), the Regional Administrator must issue a final permit decision when the Board issues notice to the parties that the petition for review has been denied. Upon consideration of the Board’s order dismissing the appeal, I am accordingly issuing my

¹ The permit, in its entirety, will expire on January 31, 2027, or five years from the date it first went into effect.

² As the holder of existing, administratively continued permits, City also was required to continue to comply with conditions of those permits that correspond to the stayed conditions. 40 C.F.R. § 124.16(c).

final permit decision. Pursuant to this decision, the sole remaining contested condition, the “winter” Total Phosphorus limit, shall become fully enforceable and effective on February 1, 2022. For the purposes of judicial review, this decision constitutes final agency action under 40 C.F.R. § 124.19(m)(2).

If you have any questions regarding this notice, please contact Michael Knapp of the Office of Regional Counsel at (617) 918-1043 or knapp.michael@epa.gov.

Sincerely,

**DEBORAH
SZARO**

Digitally signed by
DEBORAH SZARO
Date: 2021.12.21 11:13:57
-05'00'

Deborah Szaro
Acting Regional Administrator
US EPA-Region 1

cc:

Lealdon Langley, MassDEP
Stephen Leonard, Counsel for OARS, Inc.