



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

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Lieutenant Governor

Kathleen A. Theoharides  
Secretary

Martin Suuberg  
Commissioner

January 8, 2021

In the Matter of  
City of Lowell

OADR Docket No. 2019-037  
DEP File No. MA0100633  
Lowell, MA

## **FINAL DECISION**

Martin Suuberg, the Commissioner of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) has designated me as the Final Decision-Maker in this appeal.

On October 25, 2019, the City of Lowell (“the Petitioner”) filed this appeal challenging a National Pollution Discharge Elimination Permit (“the NPDES Permit”) issued to the City of Lowell jointly by the Massachusetts Department of Environmental Protection (“the Department”) and the United States Environmental Protection Agency (“USEPA”) on September 25, 2019. The NPDES Permit was issued pursuant to the Massachusetts Clean Waters Act, as amended, M.G.L. c. 21, §§ 26-53 13 and the Federal Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq. In its Notice of Claim and Request for Adjudicatory Hearing in this appeal, the Petitioner provided notice that it had filed a petition for review with the USEPA’s Environmental Appeals Board (“EAB”) pursuant to 40 C.F.R. § 124.19(a) regarding the NPDES permit. As a result, this appeal was stayed pursuant to 310 CMR 1.01(6)(h), which provides that “[u]pon

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notice or motion by any party, the Department or the Presiding Officer shall stay administratively any appeal of a Surface Water Discharge Permit when the NPDES permit issued by the Environmental Protection Agency for the same discharge has been appealed under the federal Clean Water Act.”

On July 17, 2020, the Petitioner notified the Office of Appeals and Dispute Resolution (“OADR”) that on June 29, 2020 the EAB had denied the Petitioner’s Petition for Review in all respects. On December 30, 2020, the Petitioner filed a dismissal of its appeal. In its filing, the Petitioner stated that in light of the EAB decision, this appeal is moot.

The Petitioner’s voluntary withdrawal of its appeal constitutes a waiver by the Petitioner to any further administrative review before the Department as well as appeal to court of the NPDES permit that was at issue in this appeal. Accordingly, the Department issues this Final Decision which allows the Petitioner’s withdrawal and dismisses this appeal.

A handwritten signature in black ink, reading "Salvatore M. Giorlandino". The signature is written in a cursive, flowing style.

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Salvatore M. Giorlandino  
Chief Presiding Officer

**SERVICE LIST**

**MATTER OF City of Lowell**

**OADR Docket No. 2019-037**

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