



State of New Jersey

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MUSCONETCONG SEWERAGE )  
 AUTHORITY )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 NEW JERSEY DEPARTMENT OF )  
 ENVIRONMENTAL PROTECTION, )  
 )  
 Respondent. )

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ADMINISTRATIVE ACTION

FINAL DECISION

(Consolidated)

OAL DKT NOS.:

ELU 05549-13 and EER 05944-2021

AGENCY REF. NO.: NJ0027821-46474

This order addresses the challenge by the Musconetcong Sewerage Authority (MSA) of conditions in its New Jersey Pollutant Discharge Elimination System (NJPDES) permit issued by the New Jersey Department of Environmental Protection (Department) in 2020 under the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -73, and its implementing NJPDES rules, N.J.A.C. 7:14A, requiring that MSA’s sewage treatment facility adhere to a numeric Water Quality Based Effluent Limitation (WQBEL) for the pollutant Nitrate-Nitrogen, Total (nitrate), commonly known as a nitrate limit.

MSA requested a stay of the nitrate limit in its permit on January 5, 2021, and requested an adjudicatory hearing on January 6, 2021. The Department issued a stay on July 22, 2021, to remain in effect until the resolution of this contested case. The Department transmitted MSA’s request to the Office of Administrative Law (OAL) on July 13, 2021.

On December 13, 2023, Administrative Law Judge Thomas R. Betancourt issued an Initial Decision granting the Department's motion for summary decision. ALJ Betancourt found that the Department was entitled to summary decision as to whether it complied with the Surface Water Quality Standards (SWQS), N.J.A.C. 7:9B-1.1 to -1.16, and the rules governing the NJPDES permit program, N.J.A.C. 7:14A-1.1 to -25.10, in determining the nitrate limit, and that MSA waived its argument that the Department prevented it from applying for a variance from nitrate effluent limitations by failing to raise the issue in the public comment period.

For the reasons set forth below, the Initial Decision is ADOPTED as MODIFIED below.

### **FACTUAL AND PROCEDURAL BACKGROUND**

MSA is a municipal sewage authority that operates a sewage treatment plant that discharges treated wastewater into the Musconetcong River. MSA holds a NJPDES permit for this discharge. The entire length of the Musconetcong River is classified as "FW2-TM," meaning it is freshwater associated with trout maintenance. N.J.A.C. 7:9B-1.15(d); N.J.A.C. 7:9B-1.4.

MSA received a final NJPDES permit, no. NJ0027821, on October 14, 2011 (2011 Permit). The 2011 Permit contained an effluent limitation for total nitrate. MSA requested an adjudicatory hearing, and the matter was transmitted to OAL. Docket No. ELU-05549-13. MSA and the Department subsequently settled all issues except for the nitrate limit, which was stayed. Following this, a "revoke and reissue" permit was issued on April 15, 2015 (subsequently modified on July 15, 2015) (2015 Permit) reflecting the partial settlement and superseding the 2011 Permit, while the stay of the nitrate limit was continued. The challenge to the 2011 Permit was then placed on the Inactive List by ALJ Caridad F. Rigo. The matter was reassigned to ALJ Betancourt upon the retirement of ALJ Rigo and continued on the Inactive List.



When the 2015 Permit was due to expire, MSA applied for a renewal. On December 11, 2020, the Department issued the renewal permit (2020 Permit). As part of the permitting process, the Department analyzed MSA's effluent data and found nitrate to be discharged in quantifiable amounts. The Department then conducted a cause analysis in accordance with N.J.A.C. 7:14A-13.6 and the U.S. Environmental Protection Agency's Technical Support Document for Water-Quality Based Toxics Control. From the cause analysis, the Department concluded that MSA's discharge caused or had a reasonable probability of causing an excursion above the SWQS for nitrate. It then calculated and imposed a nitrate limit in the 2020 Permit.

MSA requested an adjudicatory hearing challenging the nitrate limit in the 2020 Permit. The matter was transmitted to OAL on July 13, 2021, and assigned to ALJ Betancourt, who consolidated it with the challenge to the nitrate limit in the 2011 Permit. The Department moved for summary decision on November 30, 2022. The Department's motion was held in abeyance while a discovery motion was resolved.

The Department argued that it properly set the WQBEL for MSA's facility in accordance with current regulations. The Department further argued that the presence or proximity of a drinking water intake downstream of MSA's facility, and the economic cost of compliance, were not relevant to the imposition or calculation of a WQBEL.

MSA argued that the Department's designation of the Musconetcong River as a potable water source, and therefore its application of the SWQS for a potable water source, was arbitrary and capricious because the Musconetcong is not currently used as a potable water source and the closest drinking water intake is too far downstream to be affected. MSA argued that the Department consented to OAL adjudication of the challenge to its designation of the Musconetcong River as a potable water supply by granting the hearing request. Lastly, MSA



argued that the Department did not “turn square corners” during its permit application process. MSA alleged that the Department prevented it from applying for a variance from the nitrate limit, subverted the stay of the 2011 Permit’s nitrate limit when it included a nitrate limit in the 2020 Permit, and did not conduct a cost-benefit analysis before applying a drinking water nitrate limit on a facility that does not discharge to a current source of drinking water.

### **INITIAL DECISION**

ALJ Betancourt issued an Initial Decision on December 13, 2023, granting the Department’s motion for summary decision. ALJ Betancourt found that the Department set the nitrate limit for MSA’s facility in accordance with the Musconetcong River’s FW2-TM status, and that MSA did not contest these calculations. ALJ Betancourt found that MSA’s argument regarding the application of the FW2-TM SWQS to its facility was a challenge to a regulation and not properly raised in an adjudicatory hearing. Finally, ALJ Betancourt found that MSA was precluded from arguing that the Department did not “turn square corners” during its permit application because it failed to raise this argument in the comment period.

Both parties submitted exceptions to the Initial Decision. The Department identifies several names and dates in need of correction, most of which MSA agrees with. To the extent needed, these are reflected in this Final Decision. MSA argues: 1) That OAL is the appropriate forum to challenge the nitrate limit in its 2020 Permit, the designation of the Musconetcong River as a FW2 waterbody, and the Department’s failure to consider the cost of compliance, because there is no administrative record for the Appellate Division to consider; 2) that its argument that the Department failed to “turn square corners” in its dealing with MSA is timely and has not been waived; and 3) that the Department failed to limit the scope of the hearing to exclude challenges



to underlying regulations, and therefore cannot now argue that those challenges cannot be resolved by OAL. As explained below, none of these arguments are availing.

### **DISCUSSION**

Under N.J.A.C. 1:1-12.5, a party is entitled to summary decision where the moving party shows that there is no genuine issue as to any material fact challenged and should prevail as a matter of law. E.S. v. Div. of Med. Assistance & Health Servs., 412 N.J. Super. 340, 350 (App. Div. 2010). To prevail, the non-moving party must submit responding affidavit(s) setting forth specific facts to show that there is a genuine issue that can be determined only in an evidentiary hearing. N.J.A.C. 1:1-12.5(b); see Housel v. Theodoridis, 314 N.J. Super. 597, 604 (App. Div. 1998) (to defeat a summary judgment motion, the non-moving party cannot simply “sit on his or her hands,” but must present specific facts showing there is a genuine issue for trial). Like the standard for summary judgment under N.J. Court Rule 4:46-2, the standard on a motion for summary decision requires the court or agency to determine whether the evidence, when viewed in the light most favorable to the non-moving party, is “sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party.” Piccone v. Stiles, 329 N.J. Super. 191, 194 (App. Div. 2000) (quoting Brill v. Guardian Life Ins. Co., 142 N.J. 520, 523 (1995)). And “[e]ven though the allegations of the pleadings may raise an issue of fact, if the other papers show that, in fact, there is no real material issue, then summary judgment should be granted.” Leslie Blau Co. v. Alfieri, 157 N.J. Super. 173, 201 (App. Div. 1978) (citing Judson v. Peoples Bank and Trust Co. of Westfield, 17 N.J. 67, 75 (1954)).

As discussed below, ALJ Betancourt’s ruling granting the Department’s motion for summary decision was appropriate under these circumstances.



I. The Department appropriately set the nitrate limit for MSA’s 2020 NJPDES permit in accordance with the SWQS for the Musconetcong River.

The federal Clean Water Act (CWA) establishes a comprehensive program intended to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” 33 U.S.C. §1251(a). The CWA is administered by the U.S. Environmental Protection Agency (EPA) as well as by State agencies, through a system of cooperative federalism: EPA develops regulations, and the CWA authorizes States to administer programs under EPA’s oversight. 33 U.S.C. §1251(b); 40 C.F.R. 123.25.

Through its implementation of the State Water Pollution Control Act (WPCA) and cooperative agreements with EPA, the Department has primary authority for administering the CWA in New Jersey. The WPCA directs the Department to promulgate “reasonable codes, rules and regulations to prevent, control or abate water pollution” and to carry out the intent of the WPCA, including enabling the Department to issue permits under the Clean Water Act. N.J.S.A. 58:10A-4. It is “unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES permit issued by the Department, unless specifically exempted[.]” N.J.A.C. 7:14A-2.1(d).

Under the CWA, states are required to establish water quality standards sufficient to “protect the public health or welfare, enhance the quality of water and serve the purposes of [the CWA].” 33 U.S.C. §1313(c)(2)(A). For the surface waters of New Jersey, those standards are set forth in the SWQS rules at N.J.A.C. 7:9B. The SWQS establish the designated uses for individual waterbodies throughout the state, classify the waterbodies based on the designated uses, and specify the surface water quality criteria for specified substances, including nitrate, that must be met to support the designated use. N.J.A.C. 7:9B-1.1. The surface water quality criteria are



expressed either as numerical concentrations or levels, or as narrative elements, and represent “a quality of water that supports a particular designated use.” N.J.A.C. 7:9B-1.4. “When the criteria are met, water quality will generally protect the designated use.” Ibid.; 40 C.F.R. §131.3(b).

Designated uses for surface waters include both existing and potential uses that the Department has established for waters of the State. These uses can include potable (drinking) water supply, propagation of the natural and established biota, maintenance of wildlife, recreation, agricultural and industrial water supplies, and navigation. N.J.A.C. 7:9B-1.12. The designated uses inform the establishment of surface water classifications for each waterbody.

Freshwater waterbodies (FW) such as the Musconetcong River are classified as either FW1 waters (not subject to any wastewater discharges), PL waters (waters of the Pinelands Area not otherwise classified as FW1), and FW2 waters (all other waters). N.J.A.C. 7:9B-1.4. It is the policy of the State that all freshwaters – regardless of their classification or presently existing use – be protected as potential sources of potable water supply. To this end, the SWQS rules governing this and all surface water discharge permit matters are clear:

The restoration, maintenance and preservation of the quality of the waters of the State for the protection and preservation of public water supplies is a paramount interest of the citizens of New Jersey. In order to provide adequate, clean supplies of potable water, it is the policy of the State that all freshwaters be protected as potential sources of public water supply. Therefore, point and nonpoint sources of pollution shall be regulated to attain compliance with the Surface Water Quality Standards human health criteria outside of regulatory mixing zones.

[N.J.A.C. 7:9B-1.5(a)(3).]

As such, all freshwaters in New Jersey are designated for use as potable water supplies by regulation. See 30 N.J.R. 1778(a) (May 18, 1998) (All New Jersey freshwaters are designated “for use as potable water supply after such treatment as required by law or regulations.”) The SWQS



are intended to protect that designated use to ensure the continued and future availability of potable water, which is critical to the State's public and environmental health.

To ensure that the SWQS for waters are met and the designated uses are protected, a NJDPES permit must be obtained prior to discharging any pollutant into the surface waters of New Jersey. N.J.A.C. 7:14A-2.1(d). A NJPDES permit will often set a restriction, known as an effluent limit, on the quantities, quality, discharge rates, and concentration of chemical, physical, thermal, biological, radiological, and other constituents of pollutants. N.J.A.C. 7:14A-13.6(a). WQBELs are "effluent limitations established so that the quality of the waters receiving a discharge will meet the [SWQS] after the introduction of the effluent." N.J.A.C. 7:14A-1.2.

WQBELs "control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants, including whole effluent toxicity) which are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above the [SWQS]." N.J.A.C. 7:14A-13.5(a). To determine whether a discharge causes, has the reasonable potential to cause, or contributes to an excursion above the SWQS, the Department conducts a "cause analysis." The determinations resulting from a cause analysis are based on a comparison of a pollutant's maximum effluent concentration value – the highest value of the pollutant measured in the effluent during a particular monitoring period – with the pollutant's applicable site-specific wasteload application (WLA) – the amount of the pollutant allocated to the point source or sources of pollution – in accordance with procedures set forth by the EPA. N.J.A.C. 7:14A-13.5(d). A discharge is determined to have caused an excursion above the SWQS if the maximum reported effluent concentration value is greater than the WLA or the site-specific allocation. N.J.A.C. 7:14A-13.5(e). If the Department determines that a discharge



causes, has the reasonable potential to cause, or contributes to an excursion above a SWQS, a WQBEL is established for the discharging facility. N.J.A.C. 7:14A-13.6.

Nitrate is a naturally occurring substance, but nonetheless toxic at certain levels. It is therefore classified as a toxic substance under the SWQS. N.J.A.C. 7:9B-1.14(f)(7). Nitrate can affect many designated uses of water, including drinking water. Nitrate in drinking water can cause methemoglobinemia, also known as “blue baby syndrome.” This disease most often affects infants, who many show signs of blueness of the skin, including around the mouth, hands, and feet. Some cases may be fatal. The most common cause of methemoglobinemia is elevated levels of nitrates in drinking water. Such elevated nitrate levels put bottle-fed infants most at risk, compounded by the increased susceptibility of infants’ hemoglobin and the effect of gastrointestinal infection.

The federal government has taken specific note of the health risks posed by nitrate. According to the National Primary Drinking Water Regulations, nitrate in drinking water at levels above 10 ppm [parts per million] poses “particularly high health concern for infants under 6 months of age and can interfere with the capacity of the infant’s blood to carry oxygen, resulting in a serious illness . . . known as ‘blue baby syndrome’.” 40 C.F.R. § 141.154(c)(1). The EPA specifies that the maximum amount of permissible nitrate in potable waters, expressed as a maximum contaminant level, is 10 mg/L. The Department developed a statewide water quality criterion for nitrate based on impacts on human health from ingestion. The nitrate surface water quality criteria for FW2 waters like the Musconetcong River is identical to the federal limit of 10 mg/L. N.J.A.C. 7:9B-1.14(f)(7).

The entire length of the Musconetcong River has been classified as “FW2-TM.” N.J.A.C. 7:9B-1.15(d). “TM” means that the waters are associated with trout maintenance. Ibid.; N.J.A.C. 7:9B-1.4. The Musconetcong River’s classification as FW2-TM makes potable water supply a



designated use under the Department's regulations. See N.J.A.C. 7:9B-1.5(a)(3); N.J.A.C. 7:9B-1.15(d). The applicable surface water quality criteria for nitrate is therefore 10 mg/L. N.J.A.C. 7:9B-1.14(f)(7).

There is no dispute that the Department analyzed effluent data from MSA's facility and determined that nitrate was found in quantifiable amounts, necessitating a cause analysis in accordance with the Department's regulations. The Department conducted a cause analysis under N.J.A.C. 7:14A-13.5 and determined that MSA's discharge could contribute to an excursion of the nitrate SWQS. It then calculated the nitrate limit pursuant to N.J.A.C. 7:14A-13.6(a).

MSA did not challenge the result of the Department's cause analysis or its calculation of the nitrate limit in MSA's permit following that cause analysis. Instead, MSA argued that the 10 mg/L nitrate limit should not be applied to its facility because there are currently no downstream drinking water intakes on the Musconetcong River, and the nearest downstream drinking water intake is 81 miles downstream, on the Delaware River. These facts are not material, because the Department's determination to impose a WQBEL does not turn on whether an effluent is discharging into surface water that is presently supplying potable water. All freshwaters of the State are interconnected, and each is protected as a potential source of potable water supply through application of the SWQS. In addition to improving degraded waters, the Department must preserve the quality of the State's waters and maintain both their existing and potential human uses, as well as their ecological, aesthetic, and recreational functions. Irrespective of the Musconetcong River's current water supply use status, the distance to the nearest downstream drinking water intake, or the potential dilution of MSA's effluent when it reaches that intake, the Department must maintain water quality in the Musconetcong River for potential future water supply use and preserve the many, and inherently valuable, natural resource functions of its waters.



Alleged capital costs are also not material to the Department's determination of a WQBEL. The NJPDES permitting process, which I find that the Department properly followed when issuing MSA's permit, is solely concerned with whether a permit holder's discharge causes an excursion of the SWQS, and the Department must apply its regulations as promulgated. SMB Assoc. v. N.J. Dept. of Env. Protection, 264 N.J. Super 38, 50 (App. Div. 1993); In re CAFRA Permit No. 87-0959-5, 152 N.J. 287, 308 (1997); see also Ewing Lawrence Sewerage Auth. v. New Jersey Dep't of Env't Prot. and Sussex Cty. MUA Upper Wallkill Facility v. New Jersey Dep't of Env't Prot., EER 02687-21 and EER 13242-19, final decision, (Feb. 14, 2023), [https://njlaw.rutgers.edu/collections/oal/final/eer13242-19\\_1.pdf](https://njlaw.rutgers.edu/collections/oal/final/eer13242-19_1.pdf). N.J.A.C. 7:14A-13.5 and N.J.A.C. 7:14A-13.6 do not provide for consideration of economic impacts.<sup>1</sup> Economic impacts are properly considered during the rulemaking process of proposing, receiving public comment, and adopting the pertinent regulations in accordance with the Administrative Procedure Act.

Accordingly, I ADOPT ALJ Betancourt's conclusion that the Department properly set MSA's nitrate limit in accordance with the nitrate SWQS.

II. MSA cannot challenge the designation of the Musconetcong River as a potable water supply source in this administrative proceeding.

Rule 2:2-3(a)(2) provides the Appellate Division with exclusive jurisdiction to "review final decisions or actions of any state administrative agency or officer." A party requesting an administrative hearing must challenge "the Department's application of the regulations" and not the underlying duly promulgated regulation. N.J.A.C. 7:14A-17.4(b).

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<sup>1</sup> While the capital cost of complying with SWQS does not provide a basis for waiving duly promulgated standards, the Department routinely makes low-cost financing available to publicly-owned treatment works like MSA for the purpose of making capital improvements necessary to meet permit requirements. See <https://nj.gov/dep/wiip>.



As discussed above, the Department properly applied the 10 mg/L nitrate SWQS for FW2-TM waterbodies when it set MSA's nitrate limit. The Department also followed applicable regulations when it used the facility's design flow and effluent concentrations, rather than actual flow and effluent load, to calculate the WQBEL. See N.J.A.C. 7:14A-13.5(e), -13.6, -13.13.

MSA did not challenge the Department's conclusion that MSA's effluent caused an excursion above the nitrate SWQS for a FW2-TM waterbody, nor that the Department calculated a WQBEL in accordance with that SWQS. Instead, MSA argued that using this SWQS is inappropriate because the Musconetcong River is not used as a potable water source. OAL is not the appropriate forum for a challenge to the regulation classifying the Musconetcong River as FW2-TM, to SWQS applicable to FW2-TM waters, or to the WQBEL formula. MSA's argument that there is no administrative record for the Appellate Division to consider in this and other areas is erroneous. The rules challenged by MSA were adopted in compliance with the Administrative Procedure Act, N.J.S.A. 52:14B-4 et seq, including the creation of a record. Review of that record is the province of the Appellate Division.

Contrary to MSA's exceptions, the Department did not consent to OAL jurisdiction over MSA's challenge to the SWQS by transmitting the hearing request to OAL. The Department's grant of the hearing request explicitly provided that "the referral of this matter to [OAL] does not constitute a waiver of the Department's right to limit the introduction or consideration in the hearing . . . of any defense or issues which are inappropriately raised." Exhibit O.

I therefore ADOPT ALJ Betancourt's finding that challenges to the application of the 10 mg/L SWQS to MSA's facility are not properly before the OAL.



III. The Department dealt fairly with MSA during the permitting process.

ALJ Betancourt found, and I agree, that MSA is precluded from arguing that the Department did not “turn square corners” in dealing with it during the issuance of the 2020 Permit. “If an applicant or permittee or any person fails to raise any reasonably ascertainable issues within the public comment period, the right to raise or contest any such issues in any subsequent adjudicatory hearing or appeal shall be deemed to have been waived.” N.J.A.C. 7:14A-15.13. In its comments on the draft 2020 Permit, MSA did not raise the argument that by including a nitrate limit, the 2020 Permit violated the stay of the 2011 nitrate limit. MSA also did not raise the Department’s abandonment of the proposed Tiered Drinking Water Rule, despite knowing as early as 2019 that the Department would not finalize that rule.<sup>2</sup> Exhibit T. Nor did MSA raise its allegations that the Department dissuaded it from applying for a variance.

I therefore ADOPT ALJ Betancourt’s decision that MSA’s argument that the Department did not deal fairly with it is not properly before the OAL. However, I will address the merits of this issue briefly.

The Department did not violate the stay of the 2011 nitrate limit by imposing a nitrate limit in the 2020 Permit. The Department stayed the phosphorus and nitrate limits in the 2011 Permit “until the resolution of the adjudication request or the effective date of the next permit that addresses these parameters.” When the 2011 Permit was replaced by the 2015 Permit, the stay of the 2011 Permit’s nitrate limit was continued and MSA’s challenge to the 2011 Permit was placed on the Inactive List, where it remained. However, the effective date of the 2020 Permit, which addressed nitrate, was April 1, 2021. The stay of the 2011 Permit’s nitrate limit therefore expired on April 1, 2021.

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<sup>2</sup> The contemplated Tiered Drinking Water Rule was also known as the Drinking Water Intake Protection Rule.



MSA argues that, in or about October 2020, the Department actively dissuaded and discouraged it from applying for a variance by stating that the nitrate limit issue “could be worked out outside the variance process.” MSA’s Exceptions at 4. MSA further alleges that the Department misled MSA regarding adoption of the Tiered Drinking Water Rule, *ibid.*, even though MSA was aware that the Department was not moving forward with the Tiered Drinking Water Rule. Although MSA and the Department were ultimately unable to resolve the nitrate limit without requiring a variance, MSA was never prevented from applying for a variance, and could have done so at any time prior to the close of the public comment period on the 2020 Permit. See N.J.A.C. 7:14A-11.7(a).

As discussed above, the Department evaluated the permit renewal application, correctly applied the relevant regulations, and granted MSA’s request for a stay of the contested nitrate limit pending adjudication. The record reflects that the Department did deal fairly with MSA in this matter.

IV. MSA’s appeal of the 2011 Permit is moot.

Controversies which have become moot or academic prior to judicial resolution ordinarily will be dismissed. A case becomes moot if (1) its issue is merely hypothetical; (2) the parties lack adversarial interest; or (3) a judicial decision cannot grant the relief sought. See Oxfeld v. New Jersey State Board of Educ., 68 N.J. 301, 303–04 (1975); Anderson v. Sills, 143 N.J. Super. 432, 437–38 (Ch. Div. 1976); Cinque v. New Jersey Dept. of Corrections, 261 N.J. Super. 242, 243 (App. Div. 1993).

The 2011 Permit has been superseded by the 2015 permit, which in turn has been superseded by the 2020 Permit. Superseded permits no longer confer the “rights, duties, obligations, privileges, benefits, or other legal relations” necessary for a contested case, and a



judicial decision on a superseded permit cannot grant the relief sought. N.J.S.A. 52:14B-2; See Div. State Police v. Maguire, 368 N.J. Super 564, 573 (App. Div. 2004). I therefore ADOPT ALJ Betancourt's finding that ELU 05549-13, the challenge to the 2011 Permit, is moot.<sup>3</sup>

**CONCLUSION**

For the foregoing reasons, I ADOPT the ALJ's Initial Decision of November 20, 2023, as MODIFIED above.

IT IS SO ORDERED.

Dated: November 18, 2024

  
Shawn M. LaTourette  
Commissioner

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<sup>3</sup> I further note two other arguments raised by MSA that are also moot. In its request for a hearing, MSA argued that it was unable to comply with the requirement to submit a local ordinance and challenged the inclusion of a total dissolved solids (TDS) limit in the 2020 Permit. As the Department noted in its motion for summary decision, at the time the final 2020 Permit was issued, MSA was notified that it could submit alternative documents instead of a local sewer use ordinance, and the TDS limit was removed. Exhibit K. Thereafter, MSA apparently abandoned these arguments. To the extent these arguments are not abandoned, I FIND that they are moot.



MUSCONETCONG SEWERAGE AUTHORITY

v.

NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

OAL DKT. NOS.: ELU 05549-13 and EER 05944-21  
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