

July 15, 2013

Brandon Kernen, Manager
Large Groundwater Withdrawal Program
NH Department of Environmental Services
PO Box 95, 29 Hazen Drive
Concord, NH 03301

RE: Status of USA Springs Major Permits to Construct a Bottling Plant in Nottingham, NH – State and Local

Dear Brandon:

On behalf of the Neighborhood Guardians (NG) I have several comments regarding the June 28, 2013 letter sent to you and Christine Bowman by MicroWaters Inc. regarding the 10-year Large Groundwater Withdrawal permit (LGWP) issued by DES to USA Springs, Inc. on July 1, 2004. First of all **I believe their request for an extension of time for their LRWP is premature and should be denied based on the following:**

1. USA Springs continues to be under an administrative order issued by the DES Wetlands Bureau for not correcting wetlands violations on their property under their 5-year dredge and fill wetlands permit (2004-02817) which expired on May 25, 2010. According to Linda Magoon, DES Wetlands Compliance Manager, they would have to start from scratch to obtain a new wetlands permit pursuant to RSA 482-A: 3, I. **No extensions of any other DES-related permits should be considered until USA Springs is in compliance with this administrative order. Also, they should be required to file for and receive a new wetlands permit before the LGWP is extended.**
2. Their 5-year New Sources of Bottled Water permit expired on October 15, 2010. To renew this permit will require a new pump test {Env-Dw 303.11 (c)}. Also they would be required to submit a new application according to Env-Dw 303 which includes all of the elements specified in Env-Dw 303-04. Thus **before their LGWP is extended they must first apply for and receive approval for a 5-year New Sources permit.**
3. One of the conditions of their LGW permit is that 12 months of monitoring is required before commercial pumping operations can commence. **However, a conservative estimate of when this plant can be built and operational would not be until the year 2017. Thus their request for an extension of time should be denied.**
4. In MicroWater's letter, it states that "The decision to pursue a Permit extension was made recently, due to the following events: USA Springs, Inc. converted to a Chapter 7 bankruptcy case on August 7, 2012. On that date, Timothy P. Smith was appointed Chapter 7 Trustee. Since his appointment the Trustee has been focused on preserving the bankruptcy estate's assets for the benefit of the creditors. Since the bankruptcy estate has limited financial means, it has not been able to pursue a renewal of the LGWP until recently". The President of USA Springs filed for personal bankruptcy on January 8, 2013 (only 5 months after the Court converted this case to a Chapter 7). **There is no record on file where the NH Bankruptcy Court has given approval for USA Springs or Francesco Rotondo to expend funds to request an extension of the state LGWP with DES. Thus their request for an extension should be denied.**

For the reasons stated above, **we believe that DES should deny any requests for extension of time on their LGWP.**

Sincerely,



Jim Hadley, Chair

Cc: Geraldine Karonis, Esq., Assistant U.S. Trustee, NH Bankruptcy Court ~ Manchester, NH
Thomas Raftery ~ Chapter 7 Attorney (working for main Chapter 7 Attorney Timothy Smith)
Town of Nottingham ~ Board of Selectmen
Gail and Chris Mills, Co-chairs ~ Nottingham Water Alliance
Denise Hart, Director ~ Save Our Groundwater / Mike Russo, Chair, Lamprey River Advisory Committee
Peter Roth, Senior Assistant Attorney General, Division of Public Protection, NH Attorney General's Office

The NG are a Nottingham-based local citizen action group which is dedicated to protecting and guarding groundwater, property values, the health and safety of the residents of Nottingham and surrounding towns.