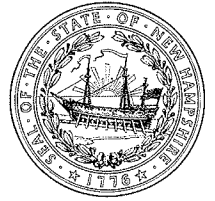


The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 Years of Protecting
New Hampshire's Environment*



July 19, 2013

Deborah R. Farnsworth
President
MyKroWaters, Inc.
PO Box 1088
Concord, Massachusetts 01742

**Subject: USA Springs Inc., Large Groundwater Withdrawal Permit Renewal Request,
LGWP-2004-0003**

Dear Ms. Farnsworth:

The purpose of this letter is to respond to your letter dated June 28, 2013 which proposes a timeframe for USA Springs to submit the information to renew the large groundwater withdrawal permit.

The New Hampshire Department of Environmental Services (NHDES) issued a large groundwater withdrawal permit 2004-0003 to USA Springs, Inc. (USA Springs) on July 1, 2004. This permit expires on July 1, 2014 in accordance with the conditions of the permit and the rules (Env-Ws 388) that were in force when the permit was issued. Condition 9 of the permit stipulates the "permittee shall apply for renewal of this permit at least 90 days prior to its expiration date". Consequently, a renewal application must be received by NHDES before April 2, 2014. The current rules, Env-Wq 403 Large Groundwater Withdrawals, stipulates in section Env-Wq 403.32 that a request to renew a permit must be filed one year prior to the expiration date of the permit. NHDES encourages USA Springs to file a renewal request as soon as possible to allow for a full review.

In addition to your inquiry about the timeframe to file a renewal request for a large groundwater withdrawal permit, there are a number of technical and regulatory issues that USA Springs must address in order to renew the permit. These include:

- 1) **Lack of Environmental Monitoring Data and/or Impact Assessment Under Current Conditions:** The renewal criteria referenced in your letter cites the requirements of the current rules, Env-403. The renewal requirements are administrative in nature and are meant to complement monitoring data that would normally be submitted to NHDES on an ongoing basis. Env-403 does not contain provisions for renewing permits that have not been utilized and instead, in section Env-Wq 403.32, stipulates that permits expire within five years if not activated. This provision ensures that there is not a prolonged lapse in monitoring water quality and quantity impacts after the issuance of the permit. Current monitoring data is needed to verify impacts under current conditions. The regulations in force (Env-Ws 388) when NHDES issued a permit on July 1, 2004 did not include an expiration provision for inactive permits. However, the renewal process for permits under Env-Ws 388 essentially required that the entire large

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groundwater withdrawal application process be repeated which requires a specific impact analysis under current conditions. USA Springs renewal application will need to contain information that addresses the deficiency of ongoing monitoring data that demonstrates that no adverse impacts will occur to water users and water resources under current conditions in accordance with RSA 485-C:21.

- 2) Assessment of the Presence of 1,4-Dioxane: Except for some limited monitoring associated with wetlands from 2004-2008, NHDES has not received any other data describing that USA Springs' withdrawal under current conditions will not cause an adverse impact as described by RSA 485-C:21. NHDES has concerns that the occurrence of the contaminant 1,4-dioxane has not been assessed at the closed Just Cause site which was contaminated with chlorinated solvents that co-occur with 1,4-dioxane. 1,4-dioxane was not included in waste site investigations when a certificate of no further action was issued to for Just Cause site. Since that time, we have learned that 1,4-dioxane is often the contaminant that dictates the extent of contamination and remedial remedies at sites contaminated with chlorinated contaminants. Additionally, since the large groundwater withdrawal permit was issued, laboratory analytical methods have been developed that can detect 1,4-dioxane at low concentrations in water. The remedial remedies previously employed to soil and groundwater at the Just Cause site are not applicable to 1,4-dioxane contamination. USA Springs will need to submit information to NHDES describing the status of 1,4-dioxane and other contaminants at the Just Cause site relative to the requirements of RSA 485-C:21, V-c, j.
- 3) Lack of Need for a Large Groundwater Withdrawal Permit: USA Springs' approval for New Source of Bottled Water expired on October 25, 2010. USA Springs has not applied for a new approval at this time. Accordingly, please consider if there is a need for a large groundwater withdrawal permit in accordance with RSA 485-C:21 V-b.
- 4) USA Springs has not fully complied with Administrative Order WD 02-31. Pursuant to pursuant to Env-C 209.03(c), there may be grounds for denying the request to renew the permit.

Please note that decisions of the NHDES may be appealed in accordance with RSA 21-O:14. Please contact me at 271-0660 or Brandon.Kernen@des.nh.gov with any questions.

Sincerely,



Brandon Kernen
Hydrology and Conservation
Drinking Water and Groundwater Bureau

cc: Kevin B. Delaney, Nottingham Springs LLC
Timothy P. Smith, Chapter 7 Trustee, USA Springs, Inc.
Evan Mulholland, NHDOJ
Charles Brown, Town of Nottingham
John Scruton, Town of Barrington