

8/14/13

Brandon Kernen
New Hampshire Department of Environmental Services
29 Hazen Drive - PO Box 95
Concord, NH 03302-0095

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

Dear Brandon,

We are in receipt of your letter dated July 19th, 2013. The July 19th letter states that the LGWP renewal application must be received by NHDES before April 2, 2014, and that an earlier application is encouraged. To that end, we would like to discuss the four technical and regulatory issues you raise in the July 19th letter. We will present our current understanding of each issue and propose a general course of action by which our client can address the issues. In some cases, we have questions which will require clarification from NHDES. We look forward to your response and please feel free to contact us with any questions.

1. Lack of environmental monitoring data and/or impact assessment under current conditions.

USA Springs was required to conduct extensive groundwater monitoring on an ongoing basis as part of the Permit. The monitoring was conducted to establish baseline data on the quality and safety of the water, and especially on the quantity of water. The majority of the monitoring involved weekly measuring of water table elevations in an extensive system of piezometers which were installed throughout the various USA Springs properties and several surrounding properties. Additionally, a stream which passes through a culvert downstream of the property was measured and its flow volume calculated weekly. A great deal of data was collected, but no monitoring has been done for several years. In any case, DES will require "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."

The impact analysis will require two components. The first is water quality. This will involve groundwater sampling and analysis, and will be discussed further in our response to Item 2, below, which also relates to water quality. The second component involves water quantity. If the data needs to be collected before April 2, 2014, then there is less than one year to collect the data. At a minimum, groundwater elevations would be measured on a weekly basis starting as soon as possible. The new data can be compared to the data collected in the past. Some of the piezometers no longer exist and would be replaced. The stream gauging station located at the downstream culvert no longer exists

and would be replaced. The only course of action would be to conduct a study using existing monitoring locations and as many replacement locations as necessary to comply.

2. Assessment of the presence of 1,4-Dioxane.

Dioxane is used to stabilize 1,1,1-trichloroethane (TCA), a chlorinated solvent. Since the Just Cause site was contaminated with chlorinated solvents, DES is concerned that Dioxane may have been present as well. Dioxane is considered a carcinogen and has been detected in groundwater at many New Hampshire locations. It is more resistant to biodegradation than the chlorinated solvents; for that reason, DES believes it is possible that the enhanced bioremediation conducted at Just Cause would not have cleaned up any Dioxane contamination that may have existed. Also, since it does not degrade, a Dioxane plume of contamination in groundwater can be larger than a chlorinated solvent plume.

Determining the presence or absence of Dioxane will involve sampling the existing overburden and bedrock wells. When the bedrock wells are sampled for Dioxane, additional and extensive groundwater quality data can be collected to fulfill the water quality requirements of the Impact Analysis discussed above, in **Item 1**.

Additionally, soil borings will need to be installed in the formerly contaminated area at Just Cause, and soil samples will be collected for analysis. New monitoring wells will likely need to be installed as well; we do not believe that many of the monitoring wells in the Just Cause area still exist. The monitoring wells will be sampled not just for Dioxane, but also for additional contaminants as part of the Impact Analysis (**Item 1**, above).

3. Lack of need for Large Groundwater Withdrawal Permit.

The July 19th letter cites RSA 485-C:21 V-b, which states "The Department's decision on the application [for a Large Groundwater Withdrawal Permit] shall be based on a demonstrated need for the withdrawal." The letter indicates that since USA Springs' New Source of Bottled Water approval expired in 2010, and no new application for approval has been received, that we should consider if there is a demonstrated need. It is not clear whether the New Source application would need to be approved to demonstrate need, or if a pending application would suffice.

Since the current New Source Approval has been expired for almost three years, it is not clear if DES will accept an update to the previous New Source Application, which was submitted in 2005, or if a completely new application will be required, in particular the pumping test portion of the requirements.

The only course of action would be to determine what the Department will require in regards to a New Source Application, and submit the application ahead of the LGWP deadline. We feel that a pending New Source Application would demonstrate need.

4. Administrative Order WD 02-31.

This administrative order, cited as potential grounds for denying the application, will have to be dealt with satisfactorily before the new LGWP is issued. The administrative order, dating from 2002, outlines a number of wetlands violations and provides a list of restorative measures, which NHDES evidently has reason to believe were not fully implemented. This matter occurred prior to MyKroWaters' involvement in the project and is outside our field of expertise. Our client will contract with a Certified Wetlands Scientist to work with NHDES to resolve the issue.

We would appreciate your comments on our proposed approach to the four issues. In particular, we would like the Department's opinion on four specific questions:

1. Will the Department accept 8 months of current data, which will give us sufficient seasonal variation, also compared with previous data?
2. Can the previously conducted pumping test be used in the New Source Application?
3. Will the Department consider a pending New Source Application a "need"?
4. What are the specific steps still required to comply with Administrative Order WD 02-31? (This matter will be the task of a Certified Wetlands Scientist, but we would still like a general idea of what will be involved).

In addition to a response to these four questions, and the regulatory framework upon which the responses are based, we would greatly appreciate any additional comments, questions, or suggestions you might have. After we have received your response, we will be able to prepare a detailed and specific work scope for your approval.

Sincerely,



Deborah Farnsworth
President, MyKroWaters, Inc.

CC: Kevin B. Delaney, Nottingham Springs LLC
Timothy B. Smith, Chapter 7 Trustee, USA Springs Inc.