



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA EMAIL -READ RECEIPT REQUESTED

September 23, 2022

Michael Milanoski, General Manager
Grafton and Upton Railroad
42 Westboro Road
Grafton, MA 01536
mmilanoski@graftonuptonrr.com

RE: Follow-up Request for Information on Site Development at 364 West Street, Hopedale, MA

Dear Mr. Milanoski:

This letter responds to your letter dated August 5, 2022 that addressed EPA's June 22, 2022 Clean Water Act (CWA) Section 308(a) request for additional site information about Grafton Upton Railroad's (GURR) land development activities at 364 West Street, Hopedale, MA. Due to incomplete responses, all questions included in that Section 308(a) letter remain open until EPA Region 1 (EPA R1) receives your complete response for each question, including all requested information.

GURR should submit answers to EPA for the entire June 22, 2022 Section 308(a) information request no later than November 7, 2022. A copy of that information request is attached to this letter for your reference. EPA R1 will use your complete answers to make a final determination on the need for National Pollutant Discharge Elimination System (NPDES) permit coverage for stormwater discharges from the site following construction completion as indicated in an initial response letter to the Town of Hopedale dated August 31, 2022.

Please provide answers to each question posed in the June 22, 2022 letter as clearly and completely as possible. Information submitted pursuant to this letter shall be sent by electronic mail to the attention of Mr. Newton Tedder at the following email address no later than **November 7, 2022**: tedder.newton@epa.gov. Your responses to this Information Request must also include a statement of certification (Enclosure 1) that is signed and dated by a person who is authorized to respond to the Information Request.

Compliance with this letter and the original Section 308(a) letter from June 22, 2022, is mandatory. Failure to respond fully and truthfully or to respond by the deadline specified above constitute violations of the CWA, subject to enforcement action, including the assessment of penalties. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal prosecution under 18 U.S.C. § 1001. EPA reserves its right to take further

enforcement action pursuant to the CWA, and other applicable laws, including the right to seek injunctive relief and penalties, for violations of any requirements of the CWA.

EPA R1 notes that GURR currently has coverage under the Construction General Permit (CGP) for the 364 West Street site with a Change Notice of Intent (NOI) that has an effective date of August 1, 2022. Your August 5, 2022 letter states that “Construction Activity for the site has not started.” However, EPA notes that GURR has commenced land clearing. According to the CGP Appendix A, “construction activities” are “earth-disturbing activities, such as the clearing, grading, and excavation of land, and other construction-related activities (e.g. grubbing; stockpiling of fill material; placement of raw materials at the site) that could lead to the generation of pollutants.” Therefore, since GURR is or has been engaging in any “construction activities,” and has disturbed greater than one acre of land, GURR must meet all applicable CGP requirements.

Finally, in closing, EPA R1 notes that in your incomplete August 5, 2022, response, you stated that GURR had not yet created a master site plan and thus could not answer questions related to it. Since that time GURR has submitted a master site plan dated August 1, 2022. At the request of GURR, EPA R1 representatives, MassDEP representatives, and GURR representatives will meet to discuss the recently submitted master site plan on October 6, 2022 as well as the Hopedale site generally. Other EPA representatives may reach out to you in advance of that meeting to ensure that all pertinent information has been submitted to the agency.

If you have any questions regarding the information requested, require a different method of data submittal, or need to request additional time to respond, please contact Newton Tedder at (617) 918-1038 or tedder.newton@epa.gov, or have your attorney contact Erin Flannery-Keith of EPA Region 1’s Office of Regional Counsel at (617) 918-1096 or flannery-keith.erin@epa.gov. We look forward to meeting with you on October 6th.

Sincerely,

Ken Moraff, Director
Water Division

Enclosures