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Environmental Law ▪ *Utility Law*

January 31, 2023

ELECTRONIC DELIVERY

Daniel C. Goldner, Chairman
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

Re: DW 22-082 – Agape Community Church Sewer System
Customer Complaint for Receivership
Filing of NHDES Deficiency Findings

Dear Chairman Goldner:

At the hearing held in this proceeding on January 12, 2023, the residents of Colonial Drive offered to file relevant documentation that the sewer system serving them is in a state of failure. To that end, the attached N.H. Department of Environmental Services' (NHDES) September 6, 2022 Notice of Findings as well as the Town of Moultonborough's October 5, 2022 Letter of Deficiency and January 13, 2023 demand for repairs, all contain findings of failure. The Town's letters were directed to the residents on Colonial Drive while the NHDES letter was directed to Bay District before NHDES was aware that the system was owned by the church.

The importance of these documents to the Commission is that the agency with primary jurisdiction over water quality, the NHDES, has determined that the system has failed. The Town's letter is important because it shows that the Town's attempt to exercise authority over the situation under RSA 147:17-a, however, that statute governs owners of non-public sewer systems.

The residents dispute that the Town has authority to direct the residents to repair the church's sewer assets. RSA Chapter 374 and RSA Chapter 378 give the Commission, not Towns, sole authority to regulate the customer-utility relationship.

The residents thank the Commission for its consideration of their petition for Commission intervention in this matter.

Very Truly Yours,

A handwritten signature in black ink that reads "Marcia A. Brown".

Marcia A. Brown

cc: Docket Related Service List