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3 To Recipient's Name Kathleen J. Freeman, Esq. Phone (508) 416-2403

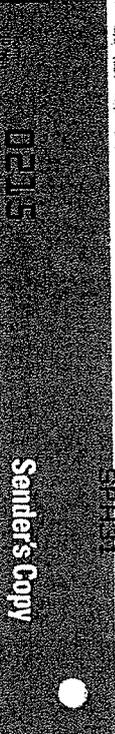
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 1  
1 Congress Street, Suite 1100  
BOSTON, MA 02114-2023

May 22, 2007

Kathleen J. Freeman, Esq.  
Bowditch & Dewey  
175 Crossing Boulevard  
Suite 500  
Framingham, MA 01702

Re: FOIA Request No. 01-RIN-00157-07

Dear Ms. Freeman:

I am writing in response to your FOIA request dated April 23, 2007. The majority of documents responsive to your request are contained in the administrative record files supporting issuance of the draft NPDES Permit No. MA01020369; EPA made these files available to Jane Madden and John Gall of CDM on May 17, 2007. Pursuant to a conversation between you and Karen McGuire of this office, we have forwarded copies of those documents requested by Ms. Madden and Mr. Gall directly to them at CDM. In addition, enclosed with this letter are copies of some other documents you requested during your conversation with Ms. McGuire that EPA has not included in the administrative record related to the permit re-issuance.

We have withheld approximately 650 pages of documents responsive to your FOIA which I have determined to be exempt from mandatory disclosure by virtue of 5 U.S.C. § 552(b)(5). The majority of the withheld documents are internal drafts of the fact sheet and draft permit shared among EPA personnel during development of the draft permit.

The following documents or categories of documents have been withheld for the reasons stated below. Please note that for categories of documents withheld, some documents within each category are subject to only one of the listed privileges and other documents are subject to more than one of the listed privileges.

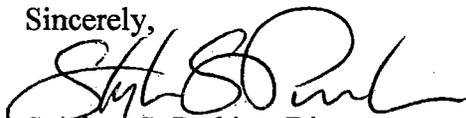
1. Internal drafts of fact sheet and draft permit (multiple versions) – deliberative process privilege, attorney-client privilege.
2. Internal e-mail exchanges among EPA employees related to the draft permit – deliberative process privilege, attorney-client privilege.
3. Internal EPA briefings related to draft permit development – deliberative process privilege, attorney-client privilege.

4. Internal EPA communication plan and questions and answers related to the draft permit – deliberative process, attorney-client privilege.
5. Handwritten notes by EPA personnel related to development of the draft fact sheet and permit, including notes of internal EPA meetings – deliberative process privilege, attorney-client privilege.
6. Handwritten notes by EPA personnel of meetings/discussions with state personnel regarding the draft permit – deliberative process privilege.
7. Drafts of letter to RIDEM – deliberative process privilege.
8. E-mail from Dave Pincumbe EPA dated November 9, 2006 to EPA personnel and Paul Hogan MADEP transmitting draft fact sheet and permit – deliberative process privilege.
9. E-mail from Paul Hogan MADEP to Dave Pincumbe EPA dated November 13, 2006 transmitting comments on draft permit and fact sheet – deliberative process privilege.
10. E-mail from Paul Hogan MADEP to Dave Pincumbe EPA dated March 19, 2007 regarding limits in draft permit – deliberative process privilege.

You may appeal this partial denial by submitting a written appeal to the Headquarters Freedom of Information Staff, Records, Privacy and FOIA Branch, Office of Information Collection, Office of Environmental Information, United States Environmental Protection Agency, 1200 Pennsylvania Ave (2822T), N.W., Washington, D.C. 2046; e-mail: [hq.foia@epa.gov](mailto:hq.foia@epa.gov). The appeal must be made in writing, and it must be submitted to the Headquarters FOI Staff not later than 30 calendar days from the date of the letter denying the request. The Agency will not consider appeals received after the 30-day limit. Your appeal letter and its envelope should be marked "Freedom of Information Act Appeal," and the letter should refer to the RIN number listed above, the date of this determination, and my name, title and address.

Finally, under separate cover, we will forward a bill for the search, review and copying fees associated with response to this FOIA. Please contact attorney Karen McGuire at 617-918-1711 if you have any questions concerning this matter.

Sincerely,



Stephen S. Perkins, Director  
Office of Ecosystem Protection

Enclosures



tom walsh  
<tkwalsh@ubwpad.org>

02/21/2006 10:46 AM

To David Pincumbe/R1/USEPA/US@EPA

cc

bcc

Subject RE: cost estimate

History:

This message has been replied to.

David;

Thanks - I'll check this out. Do you mind if I ask CDM to review it?

Tom Walsh  
Upper Blackstone WPAD  
Tel 508 755 1286  
Fax 508 755 1289

-----Original Message-----

From: pincumbe.david@epamail.epa.gov  
[mailto:pincumbe.david@epamail.epa.gov]

Sent: Friday, February 17, 2006 9:26 AM  
To: tkwalsh@ubwpad.org  
Subject: Fw: cost estimate

Tom,

I forgot to include the pumping cost of \$3.5 million in the total capital cost (should be  $22.1 + 3.5 = \$25.6$  million) but it was included in the calculation that resulted in the \$35 per year rate increase.

----- Forwarded by David Pincumbe/R1/USEPA/US on 02/17/2006 09:23 AM -----

David  
Pincumbe/R1/USEP  
A/US

To

tkwalsh@ubwpad.org  
02/15/2006 02:59

cc

PM  
Janson/R1/USEPA/US@EPA

Roger

Subject

cost estimate

Tom,

The following summarizes how we estimated the cost of denitrification filters as well as the sewer fee impact. There are a number of conservative assumptions that went into our estimate that should be evaluated in further detail. These include:

1. the assumption that there is no economy of scale, i.e., the capital cost per MGD for a 45 MGD facility is the same as the capital cost per MGD for a 1.56 MGD facility.

2. we assumed an interest rate of 5% bonded over 20 years. I don't know what the current SRF rate is but it is less than 5%.

3. we assumed that the entire cost would fall on the residential users. A more accurate analysis of the impact on residential users would apportion only the residential component of the flow to the residential users.

We based our cost estimate on the cost for adding denitrification filters at the Wareham WWTF (1.56 MGD design flow). These costs included \$522,000 to purchase the filters, \$55,000 to install, and \$37,500 for start up and testing. This works out to \$393,000 per MGD. Scaled up to 45 MGD gives a capital cost of \$17.7 million. We added 25% for engineering and contingencies which results in a total capital cost of \$22.1 million. Bonded over 20 years at an interest rate of 5% results in a sewer fee increase of approximately \$35 per year for the average household (55,000 households in the service area).

# **Performance Partnership Agreement**

**Between the Rhode Island  
Department of Environmental Management  
And the  
US Environmental Protection Agency  
Region 1**

**State Fiscal Years 2006 and 2007  
July 1, 2005 through June 30, 2007**

**January 2006**



## APPENDIX B

### Findings Regarding Massachusetts Wastewater Treatment Facilities Impacting Narragansett Bay: Need for Abatement of Massachusetts Discharges to the Seekonk River

The Seekonk River is the most nutrient impacted area of Narragansett Bay. This segment currently receives nitrogen loads at a rate 24 times higher than the average loading to Narragansett Bay (24X). Application of the Marine Ecosystem Research Laboratory (MERL) nutrient enrichment gradient studies conducted at the University of Rhode Island indicates that reduction to the 2X to 4X level is required to meet water quality standards.

RIDEM has determined that five MA WWTFs contribute 43% of the WWTF nitrogen loading to the Seekonk River. This evaluation considers nitrogen uptake along the Blackstone and Ten Mile Rivers. RI has developed a phased implementation plan to reduce the discharge of nitrogen from RI and MA WWTFs to the Providence and Seekonk Rivers. The first phase of the nitrogen reduction plan, which includes comparable reductions from Massachusetts WWTFs, will reduce the 95-96 seasonal loading to the Seekonk River by 59%, from the 24X to 10X level. As a result of this plan, the MA WWTFs contribution would represent 59% of the allowable load to the Seekonk; UBWPAD alone would represent 37%. While it is anticipated that further reductions will be necessary, a substantial reduction will be achieved. DEM has proposed the following total nitrogen discharge limits for MA WWTFs along with the requirement to operate the treatment facility to reduce the discharge of total nitrogen, during the months of November through March, to the maximum extent possible using all available treatment equipment in place at the facility, except methanol addition.

	Monthly Average Total Nitrogen Limit (May-October)
UBWPAD	5.0 mg/l
Grafton	8.0 mg/l
Uxbridge	8.0 mg/l
Attleboro	8.0 mg/l
North Attleboro	8.0 mg/l

MADEP is opposed to the establishment of permit limits but is willing to work with WWTFs to optimize existing operations to reduce nitrogen their effluent to the extent practicable and has proposed the collection of additional data to evaluate environmental impacts. The MADEP proposal (assuming total nitrogen of 10 mg/l) would only result in a 31% reduction in WWTF loading (the 17X loading condition). This reduction will not be sufficient since the Fields Point Reach of the Providence River exhibits significant signs of impairment from nutrient over enrichment and is currently at the 18X condition. Furthermore, if the MADEP proposal were adopted, MA WWTFs would contribute 76% of the load to the Seekonk River, the UBWPAD WWTF alone, would represent 59% of the loading to the Seekonk River.

After consideration of this information, it is even more apparent that implementation of the loading reductions proposed by DEM are necessary to ensure substantial progress toward achieving water quality criteria in the Seekonk River Providence River and Upper Narragansett Bay, and should not be delayed.

The DEM and EPA Region 1 must work together to develop and implement a plan for achieving equitable regulation of WWTF discharges to reduce nutrient impacts and achieve acceptable levels of dissolved oxygen throughout the region.

In particular, EPA Region I will develop and implement a plan for establishing the nitrogen discharge limits for the MA WWTFs identified above to ensure equitable regulation of WWTF discharges impacting the Seekonk River, Providence River, and Upper Narragansett Bay.

EPA agrees to work with MADEP and the Town of Swansea to develop and implement a plan to ensure inadequate sewage disposal and other water quality issues documented in the draft interstate Kickemuit River and Reservoir TMDL are properly addressed.

A remaining issue is that MADEP water quality regulations do not recognize the reservoirs located in Massachusetts utilized by Bristol Country Water Authority (BCWA) (Shad Factory Reservoir and Anawan Reservoir) as public water supply waters nor the Kickemuit River (including Swansea Reservoir) as a tributary to a public water supply reservoir. The raw water supply system's evident water quality problems, the critical need to maintain the Kickemuit Reservoir system as a viable water supply, and the fact that the watershed in Massachusetts continues to experience development pressure seems irrelevant to non-RI officials.

Draft revisions to the MADEP regulations were recently available for public comment. Office of Water Resources submitted comments requesting that MADEP formally recognize these waters as public water supply sources. USEPA agrees to work toward recognizing these waters as public water supplies (Class A).