

EXHIBIT 5



SPRINGFIELD WATER AND SEWER COMMISSION

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Established
1996

April 27, 2018

VIA EMAIL (timony.meridith@epa.gov, Claire.golden@state.ma.us)

Meridith Timony
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Claire A. Golden
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**RE: DRAFT NPDES PERMIT COMMENTS – SUPPLEMENTAL
SPRINGFIELD WATER AND SEWER COMMISSION
SPRINGFIELD REGIONAL WASTEWATER TREATMENT FACILITY
NPDES PERMIT NO. MA0101613**

Dear Ms. Timony and Ms. Golden:

On February 9, 2018, the Springfield Water and Sewer Commission (SWSC) submitted written comments on the above referenced draft National Pollutant Discharge Elimination System (NPDES) permit (Permit), dated November 15, 2017, for the Springfield Regional Wastewater Treatment Facility (SRWTF). We also provided verbal testimony at the April 24, 2018 public hearing held at the Pioneer Valley Planning Commission in Springfield, Massachusetts. We appreciate this opportunity to provide additional written comments on the Permit, to supplement our earlier comments.

SWSC's mission is to provide safe, reliable, and affordable water and sewer services in a sustainable manner. While fulfilling our mission we strive to: conserve and protect our natural resources for present and future generations; meet or surpass public health and environmental standards, and comply with all federal, state, and local regulatory requirements. The foundation for delivering on our mission is based on significant reinvestment in the renewal of our water and sewer assets. Appropriate prioritization of this investment is critical to our collective success and is often impacted by NPDES Permitting. The supplemental comments provided below are submitted in this context:

1. **Nitrogen:** SWSC remains concerned regarding the manner of implementation of the Long Island Sound (LIS) Total Maximum Daily Load (TMDL) in the Permit, which has neither legal basis nor technical merit. As stated in the TMDL “the CWA (Clean Water Act) Section 303(d) requires the establishment of TMDLs that will result in the attainment of water quality standards.” (p.25). Until or unless the TMDL is updated, the basis for load and wasteload allocations for total nitrogen (TN) as detailed in the TMDL, both in-basin and out-of-basin, represent the best scientific and legal approach for meeting water quality standards in the LIS.

It is important to understand that the adopted LIS TMDL requires an out-of-basin wasteload target TN reduction of 25% of the baseline load (the estimated point source loads in 1990). The out-of-basin TMDL point source load for Connecticut River basin ($ConnPS_{TMDL}$) can be expressed as:

$$\begin{aligned} ConnPS_{TMDL} &= BaselineLoadPS_{1990} \times (1 - 25\%) \\ BaselineLoadPS_{1990} &= 21,672 \text{ lbs/d} \\ ConnPS_{TMDL} &= 21,672 \times (1 - 25\%) = 16,254 \text{ lbs/d} \end{aligned}$$

The adopted LIS TMDL identifies the baseline load for the Connecticut River as 21,672 lbs/day. A 25% reduction in that load equates to a target aggregate wasteload allocation of 16,254 lbs/day for point sources in the “out-of-basin” (i.e., upstream of the State of Connecticut) portion of the Connecticut River. This target load of 16,254 lbs/day remains unchanged since the TMDL was established in 2000 and approved in 2001. Unless and until a revised TMDL is duly promulgated, the SWSC’s responsibility under the CWA is to comply with the current, adopted TMDL.

As early as 2004 to 2005, TN loadings to the Connecticut River were estimated to be 13,836 lbs/day. This loading estimate, based on effluent data, indicated that the TMDL target for out-of-basin TN wasteload from the Connecticut River had been achieved. In fact, the TN loading to the Connecticut River from out of-basin sources far exceeded its target of 25% reduction, and in actuality achieved approximately 36% reduction over baseline levels.

Clearly the TMDL out-of-basin targets for the Connecticut River have not only been achieved but have been generously exceeded.

The above notwithstanding, the EPA here proposes to modify the identified TMDL target from the 25% reduction required by the approved TMDL, to a variety of other targets (described as three alternatives). Further, the Permit then invites the public to evaluate the technical merits of those choices, as well as to develop still more alternatives to the duly promulgated TMDL point source loading target.

We strongly object to this approach as it does not meet the requirements or intent of the Clean Water Act. Instead of requiring SWSC to maintain compliance with the 25% reduction goal, the Permit suggests three alternatives on which the public is invited to provide technical evaluation and suggestions:

- 1) Assign a loading benchmark of 2,279 lbs/day, based on EPA’s estimate of the SRWTF’s current annual average loads (using 2012-2016 data);
- 2) Assign a loading benchmark of 2,534 lbs/day based upon EPA’s estimate of the SRWTF’s maximum annual average loads (using 2012-2016 data), along with a concentration benchmark of 8 mg/L as an annual average; or
- 3) Assign a benchmark concentration of 8 mg/L as an annual average.

In addition, some commenters have suggested that the SRWTF receive an even more stringent annual average load of 1,648 lbs/day, based upon USEPA's estimate of SRWTF's annual average loading for the years 2004-2005. The use of this loading snapshot is inappropriate to establish nutrient loading limits, as USEPA has recognized in their preparation of the draft Permit and as referenced at the public meeting on April 24, 2018. It does not represent the most recent data available to the Agency at the time of permit renewal. Moreover, this benchmark and all of the loading benchmarks suggested by USEPA and commenters on the permit are arbitrary and are not in any way connected to the TMDL requirements or aggregate wasteload allocation for the out-of-basin point sources.

Future increases in flow to the plant, which will be realized through planned capital projects and potential expansion of regionalization, will also contribute to an increase in annual loading. SWSC's annual nitrogen load will increase as its discharge flow approaches its permitted capacity. This is not inconsistent with the TMDL, since, even at its permitted flow of 67 MGD, SWSC will be discharging less than its flow-weighted share of the allowable out-of-basin TMDL load through the Connecticut River. SWSC achieved compliance long before the 2004-2005 loading snapshot was taken. Establishing a nitrogen loading limit that does not recognize the full potential (i.e., permitted flow) of the treatment plant would be shortsighted. Utilizing a concentration benchmark, on the other hand, will allow the Commission to retain the full treatment potential of the SRWTF while still ensuring its nitrogen load remains below its share of the aggregate out-of-basin wasteload allocation for the Connecticut River basin.

SWSC strongly objects to EPA's attempt to modify the approved and adopted TMDL requirements through the issuance of a permit. In order to avoid a protracted disagreement, which would entail additional expense to our ratepayers, the SWSC is willing to accept Alternative 2 as identified in the Permit, which would impose an average annual optimization concentration benchmark of 8 mg/l as an annual average. We note that this option would ensure that SRWTF will not have any potential to exceed the TMDL threshold concentration of 9.71 mg/L, which is the concentration associated with its allowable TMDL load when discharging at its maximum permitted flow.

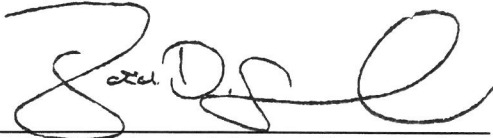
Further, as stated in the LIS TMDL, Section VII.F, "A critical component of phased implementation is the reassessment of management goals and actions based on new information. The LISS Phase III Actions for Hypoxia Management also contains commitments to formally evaluate the 58.5 percent reduction target every five years." As part of that reassessment, the TMDL requires an evaluation of the progress of implementation, improvements in nitrogen removal technology and pilot projects, review of states' water quality standards and their possible revision among others. Finally, the TMDL requires "...New York and Connecticut will review and revise the TMDL based on this assessment by August 2003." Please provide the status of that review, as well as the subsequent every five year review since adoption. We request that EPA complete the update to the TMDL. Until such an exercise is undertaken, the SWSC's responsibility under the CWA is to comply with the current, adopted TMDL.

- 2. Reclassification of Outfall 042:** SWSC affirms our objection to the reclassification of Outfall 042 from an emergency plant bypass to a Combined Sewer Overflow (CSO). EPA's National CSO Policy defines a CSO as the discharge from a combined collection system *prior to the treatment plant*. Since Outfall 042 is located after the Plant Inlet Structure, and after preliminary mixing of flows, Outfall 042 is clearly not a CSO.

3. **Blending:** In light of the April 17, 2018 News Release by EPA: “EPA Announces Effort to Update Wet Weather Regulations for Wastewater Treatment Plants,” SWSC requests that there be no new restrictions in the Permit relative to operation of the secondary bypass at the SRWTF until this rule-making process is concluded.
4. **Public Notification Plan:** Regarding the public notification plan, SWSC would like to continue to work with our communities to provide effective notification to the public and meaningful access to the status of CSO discharges. We urge EPA to provide the flexibility for us to proceed in this direction, rather than imposing the “one-size-fits-all” requirements currently contained in the draft permit.
5. **Co-Permittee:** SWSC remains concerned regarding the provisions relating to co-permittees as they create uncertainty surrounding roles and responsibilities within the Permit itself. This not only creates confusion in the enforceability of the Permit, but also potentially complicates the positive working relationships we currently have with our customer towns.

SWSC appreciates the opportunity to offer these supplemental comments on the Permit. Please feel free to contact josh.schimmel@waterandsewer.org or call 413-452-1333 if you have any questions about the enclosed information, or if you would like to arrange a meeting to discuss the resolution of the issues raised in this letter.

Sincerely,



Springfield Water and Sewer Commission
Joshua D Schimmel, Executive Director

cc: Fredric P. Andes, Barnes & Thornburg LLP
Dingfang Liu, PhD. PE, Kleinfelder
Administrator, Town of Agawam
Administrator, Town of East Longmeadow
Administrator, Town of Longmeadow
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