

City of Taunton

Office of the Mayor

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July 24, 2014

Curt Spalding, Regional Administrator
USEPA Region I
5 Post Office Square
Boston, MA 02109-3912

Nancy Stoner, Acting Assistant Administrator
USEPA Headquarters
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Request for Meeting to Discuss Proposed Permit

Dear Acting Assistant Administrator Stoner and Regional Administrator Spalding:

The City of Taunton respectfully requests a joint EPA Region I/Headquarters meeting to review various regulatory, fiscal and technical aspects associated with the proposed permit for our facility. The projected cost impacts of the proposed permit requirements, and several other federal/state-mandated environmental projects, are placing an enormous financial burden on our community. Given the serious impact these expenditures are projected to have on our municipal operations, we believe that it is essential to ensure that the expenditures mandated by EPA have a solid scientific basis and will produce real environmental benefits.

Recent trade press reports indicate that the methods employed by the Regional permit staff to create the stringent nitrogen limits for other communities and our City are not scientifically sound. Based upon these concerns in another estuarine system, the State of New Hampshire has recommended that additional studies be conducted in advance of imposing similar stringent TN limits. Moreover, our own review has revealed major gaps in the administrative record that is supposed to provide the supporting bases for permit issuance. Consequently, we believe that an independent assessment or "fresh look" is needed to determine whether the proposed requirements are reasonable. The basis for this request is discussed in greater detail below.

Basis for Meeting Request

The Regional office has proposed that Taunton construct a "limits of technology" facility to control nitrogen (setting a 3 mg/l TN limitation). The permit analyses assumed that TN was the cause of moderately low DO conditions that occur infrequently in the upper estuarine portion of the system. It is well understood that easily a dozen factors, some natural, some man-made, many non-nutrient, may affect DO conditions in an estuary. As you know, the establishment of nutrient requirements for municipal entities has been challenged by numerous parties across the country due to concerns that the scientific bases for the proposed requirements are not well based. In the City's case, those concerns appear well-founded. There is no analysis anywhere in the record showing the degree to which nitrogen and other oxygen-demanding substances are affecting DO conditions in our estuary. Rather, the proposed permit simply assumed that nitrogen was the direct cause of the conditions. Moreover, the data being utilized by the Region are from 2004-05, while major reductions in oxygen-demanding pollutants and TN loadings have occurred throughout this system since then, due to CSO remediation and wastewater plant upgrades. No effort to account for the beneficial effects of these other EPA-mandated reductions was presented in the permit fact sheet. We understand that applicable federal rules require permit actions to be based on current information. This permit action clearly is not in accordance with those rules.

Finally, the simplified methods being employed to claim DO impacts from nitrogen have been determined to be "not scientifically defensible" in a similar setting (Great Bay Estuary). In particular, both of the peer reviewers who are nationally recognized experts on DO evaluation for estuaries concluded that simplified methods are inappropriate to apply in assessing DO impacts because so many different factors influence that parameter. One observed that EPA's own stressor-response guidance does not support application of such approaches when assessing estuary DO. If this is true (i.e., EPA has never published a document justifying that simplified "stressor-response" methods may be used for DO evaluations), it is not acceptable to use such methods for setting our permit limits. Our consultants have noted that the methods being employed in our case appear to be even less documented than those that were found inadequate by EPA's Science Advisory Board in 2009 and by the independent peer review conducted for the Great Bay Estuary. It is not apparent why EPA would continue to employ methods and approaches that its own Science Advisory Board has indicated are inadequate to reach a scientifically defensible conclusion on whether or how to regulate nutrients.

Schedule Issues

Assuming that the need for such extensive and expensive facility improvements is properly documented, the City is also concerned that the Region is not following EPA Headquarters guidance, which would allow for an extended schedule for construction improvements using EPA's "integrated planning" guidance. The City has a wide range of important water, wastewater and solid waste management requirements that must be met, in addition to other necessary municipal expenditures. We are in the process of completing extensive CSO reduction measures that were mandated by EPA. We are aware that other entities are being given 15-20 years to construct necessary nutrient reduction facilities in similar circumstances. EPA Region I, however, is insisting that all construction be completed in 10 years, before water quality studies are completed to confirm that "limits of technology" are even needed in this instance. We would request that a review of allowable compliance schedule options and durations be part of our discussion.

Conclusion

We understand that EPA wants progress to be made in achieving environmental goals and that simply waiting for all studies to be completed is not acceptable. However, all federal decisions need to be based on current data and properly documented technical procedures to ensure that the proposed action is actually necessary to achieve the stated environmental objective. Small communities should not be subject to high cost federal mandates based on limited data or unproven assessment methods. Given all of

the missing analyses and clearly outdated information that was used to impose "limits of technology" on our City, we believe that an independent reassessment of the need for such limitations should occur.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "T. C. Hoye, Jr.", written in black ink.

Thomas C. Hoye, Jr.
Mayor of Taunton

Cc: Congressman Joseph Kennedy