

*City of Taunton
Office of the Mayor*

COPY

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November 19, 2014

Via Email and US Mail

Mr. Ken Kopocis, Deputy Assistant Administrator for Water
USEPA Headquarters
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

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

RE: Request for Meeting with EPA Headquarters to Discuss Issues with Proposed Permit

Dear Deputy Assistant Administrator Kopocis and Regional Administrator Spalding:

In correspondence dated July 24, 2014, the City of Taunton (City) had requested a meeting with EPA Headquarters and EPA Region I to discuss a number of serious technical and regulatory concerns with a proposed EPA Region I permit. That draft permit required the installation of "limits of technology" nitrogen reduction. The Region's claim was that such requirements were necessary to achieve dissolved oxygen (DO) standards in the Taunton Estuary. Chief among the issues of concern identified by the City were:

- The failure of EPA's analysis to account for extensive watershed improvements affecting the DO regime since 2005.
- The use of very simplified procedures – called the "sentinel method" – to choose an applicable nutrient standard and set the stringent limits.
- The lack of any analysis showing that nutrients were responsible for DO conditions in the estuary.

On September 10, 2014, EPA Region I met with the City, without EPA Headquarters, to discuss our concerns. The meeting did not go well. At the outset, Regional Administrator Spalding refused to meet unless we excluded our special counsel, John Hall, from the meeting. This was a very unfortunate demand as the meeting had to proceed without our primary technical/ regulatory consultant and this greatly impacted our ability to respond to the various assertions of the Regional office staff. After we agreed to exclude Mr. Hall, EPA staff made a number of claims regarding new information it had

received and analyses conducted after the public comment period on the draft permit closed. In particular, EPA asserted that the "sentinel site" methodology was an accepted, scientifically defensible method and that the large expenditures made on wastewater and sewer system improvements and nutrient reductions in the past decade (easily over \$1 billion), did not improve the DO regime, only bacteria levels. The Region also stated that the Brayton Point temperature reductions occurring since 2004/05 and recently proposed discharge elimination of this facility did not/will not improve DO in the Taunton Estuary. EPA suggested that the City should drop its objections to the permit, even though no objective information actually verifying any of these positions was provided to the attendees.

Following the September 10, 2014 meeting, we conveyed this information to Mr. Hall, whose firm submitted a FOIA request seeking the information that was the basis for the Region's various claims. It was critical for the City to receive this information as no prior opportunity had been given, during the open public comment period, to ascertain the basis and validity of these claims. *EPA Region I, in its response, refused to provide any information whatsoever, claiming that the request was improperly formulated, which, in my opinion is simply dumbfounding.* The information request was plainly stated and reflected the claims made by the Regional Administrator and his staff at our meeting. I have attached both the request and the response for your convenience. (Attachments).

If EPA Region I is unable or unwilling to share with the public the data and analyses upon which it is relying to justify permit requirements imposing hundreds of millions of dollars on communities in the Taunton Estuary watershed, then it should not be going forward with the process. In light of these events, the City respectfully requests a meeting with EPA HQ and the Region to discuss the situation and the fair resolution of our concerns. Please be informed that our special counsel, Mr. Hall, will be present. In the meanwhile, we are also seeking your assurance that EPA will not be issuing this permit pending (a) our meeting, (b) EPA's release of the requested information and (c) objective confirmation that our concerns are not well founded.

Thank you for your consideration of this request.

Sincerely,



Thomas C. Hoye, Jr.

Mayor of Taunton

Cc: Congressman Joseph P. Kennedy III
Governor-elect Charlie Baker
Claire Golden, Mass DEP
Mayor of Fall River
Mayor of Brockton
Massachusetts Coalition for Water Resource Stewardship
John Hall, Hall & Associates