TABLE OF CONTENTS

I.	In	trod	uction1
II.	Fa	actu	al and Statutory Background
Ш	T.	hres	hold Procedural Requirements
IV	. L	egal	/Procedural Arguments
	a.	pe for	PA arbitrarily considered information submitted after the close of the comment riod to information favoring its decision to implement stringent nitrogen control r the Newmarket Facility but excluded similar information submitted by the palition
		i.	The Coalition's supplemental comments did not raise new issues but rather included further data and analyses relating to the Coalition's original timely filed comments
		ii.	The information submitted by the Coalition was not available when the comment period closed, therefore, could be properly submitted before the final permit was issued
		iii.	As EPA (and DES) changed their rationale for imposing stringent TN limitations after the close of the comment period, the Coalition was allowed to submit data and analyses regarding the new rationale
	b.		PA failed to fully and fairly consider the relevant information submitted by the oalition prior to the close of the comment period
		i.	EPA purposefully did not include information submitted by the Coalition in the peer review process
		ii	EPA ignored the fact that DES acknowledged numerous technical errors occurred in the development of the 2009 Numeric Criteria
		ii	i. EPA overlooked the significance of the draft PREP 2012 Report refuting findings of the 2010 WLA document
	c		EPA Failed to properly apply the State's narrative standard41
	d	l .	EPA illegally applied an unadopted numeric criteria when developing nitrogen effluent limitations
	e		EPA has modified its interpretation of the requirements provided for under 40 C.F.R §122.44(d)49

		i. The Region's Interpretation Presents an Issue of National Significance51
	f.	Since Great Bay is not a transparency limited system, EPA must be required to republish the permit allowing the public to comment on EPA's newest justification for imposing strict nitrogen limitations on Great Bay Communities
	g.	Reliance on Dated and Limited State Technical Evaluations to Address Current Permit Objections is Clear Error
V.	Sci	entific Argument56
	a.	Nitrogen controls will not achieve transparency targets due to naturally occurring CDOM and turbidity
		i. The Coalition is not required to demonstrate what caused eelgrass declines that is the responsibility of the regulatory agencies60
		ii. EPA's Rejection of the Tidal River Data Analysis is Baseless61
	b.	Great Bay is not a transparency-limited system62
		i. There is not Field Data Showing Existing Transparency is Insufficient to Support Eelgrass Growth in Great Bay/Little Bay64
		ii. The Data does not show transparency-induced eelgrass losses in Great Bay .65
	c.	Great Bay is not confirmed to be a macroalgae impaired system67
		i. EPA's Presentation of Nettleton's Report is Misleading and Not Current
	d.	EPA improperly ignored the significant impact the 2006 extreme weather had on the data sets
	e.	EPA applied an incorrect return frequency to determine the proposed limits75
	f.	Nitrate levels in the Great Bay are not toxic levels leading to eelgrass declines 77
	g.	Assuming Eelgrass are impaired by nitrogen, EPA is regulating the wrong pollutant form; it should be regulating nitrate not total nitrogen79
	h.	EPA ignored the MOA conclusions on the appropriate requirements for point sources in the Great Bay estuary82
	i.	EPA ignored admissions made by the author of 2009 Nutrient Criteria document stating that the information relied upon was in error84

j.	EPA's use of the Peer review violated the Coalition's Due Process Rights and CWA Mandatory Duties
k.	Weight of evidence assessment was procedurally and substantively flawed88
	i. Prior DES studies Showing No Transparency Relationship were improperly Excised from Record
	ii. EPA Ignored Relevant Science Advisory Board Findings that Confounded Correlations are not a Scientifically Defensible Basis for Criteria Assessment
1.	EPA's Action fails the Daubert Test
m.	EPA's Response to Comments confirms 3 mg/l TN limit is insufficient to ensure compliance
VI. C	onclusion97