

EXHIBIT 7 (AR H.20)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 27 2012

OFFICE OF WATER

Mr. John C. Hall
Hall and Associates
Suite 701
1620 I Street, N.W.
Washington, D.C. 20006-4033

Dear Mr. Hall:

I am writing in response to your May 4, 2012, letter requesting that further review of Great Bay Estuary matters be withdrawn from the Environmental Protection Agency (EPA)'s Region 1 office and transferred to an independent panel of experts for their evaluation of the relevant scientific information.

Your letter makes a number of very serious allegations concerning the EPA Region 1 office, including that "serious regulatory violations, bias, and scientific misconduct underlie the Region's actions..." and that the Region has "intentionally, knowingly, or recklessly committed violations of the Federal Policy on Research Misconduct and the EPA Scientific Integrity Policy in every step of these proceedings..." Because of the seriousness of these allegations, the EPA's Office of Water has initiated a careful review of the issues raised in your letter.

The EPA's 2012 Science Integrity Policy indicates that, "Scientific misconduct includes fabrication, falsification, or plagiarism in proposing, performing, or reviewing scientific and research activities, or in the publication or reporting of these activities; scientific misconduct does not include honest error or differences of opinion." Due to the seriousness of your integrity claim, I contacted the EPA's interim science integrity official, and he determined that your letter and its attachments do not provide a basis to conclude that the Region's actions in any way constituted scientific misconduct as defined by the EPA's Scientific Integrity Policy.

The EPA appreciates the fact that you and your clients may not agree with many of the determinations reached by the New Hampshire Department of Environmental Services (NH DES) and the EPA Region 1 office. It is, of course, not unusual for parties to disagree – and often disagree strongly – with the EPA over Agency actions that may affect them, especially when those actions rely on interpretations of legal authority and analysis of scientific data. I recognize that you are concerned that the EPA-proposed limits may result in the need for action by your clients, as well as other stakeholders, to reduce nutrient loadings to the Great Bay Estuary. Nevertheless, based on careful consideration of your letter and the documents you provided, the EPA Office of Water has not seen evidence that Region 1 has engaged in scientific misconduct, as you suggest.

The EPA has not made a final decision on your request for additional peer review. However, I want to clarify the scope of previous EPA peer review activities. Pursuant to a December 2009 request of the NH DES, we conducted a peer review of the State's final draft criteria document through EPA's Nutrient Scientific Technical Exchange Partnership and Support (N-STEPS) program. N-STEPS is an external, independent peer review process administered through an EPA-funded contract. The two scientists chosen for the peer review have national expertise in the field of marine eutrophication and had no involvement in the development of the NH DES criteria. Neither Region 1 nor the Office of Water had a role in selecting the reviewers. The reviewers had access to all comments provided to NH DES during the public comment period described above, including those of the affected municipalities.

It is the EPA's opinion that the reviewers and the charge questions to them were consistent with the Office of Management and Budget (OMB)'s 2004 guidance for peer review as well as Section 1.2.3 of the EPA's Peer Review Handbook (3rd edition). The purpose of the peer review was to support the state by providing advice from national experts on how to improve the technical and scientific soundness of the document as a basis for future development of numeric nutrient water quality criteria. The peer review was not intended to resolve the many complex issues concerning the development of nutrient criteria and the implementation of nutrient controls for the Great Bay.

I also recognize that you have sent the EPA several additional letters, most recently on September 7, 2012, providing information that you believe supports your concerns about the scientific basis for contemplated EPA permitting actions. Although the Office of Water has not seen any evidence of scientific misconduct, it is continuing to review your submissions and intends to provide a comprehensive response at a later date. In the interim please continue to direct your questions to my senior advisor, Ellen Gilinsky, at gilinsky.ellen@epa.gov.

Sincerely,



Nancy K. Stoner
Acting Assistant Administrator