BEFORE THE
ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re:	)	NPDES Appeal No. _____
Town of Marion Department of Public Works NPDES Permit No. MA0100030	)	

PETITION FOR REVIEW BY THE BUZZARDS BAY COALITION

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INTRODUCTION

Pursuant to 40 C.F.R. § 124.19, the Buzzards Bay Coalition (the "Coalition") submits this Petition for Review of conditions in National Pollution Discharge Elimination System ("NPDES") permit No. MA0100030 (the "Permit") issued on April 13, 2017 by the United States Environmental Protection Agency Region 1 ("Region 1") pursuant to the Clean Water Act, 33 U.S.C. § 1251 *et seq.* (the "CWA") to the Town of Marion Department of Public Works ("DPW") to discharge from the Marion Water Pollution Control Facility (the "Facility") at 50 Benson Brook Road in Marion, Massachusetts. The Permit is attached as Exhibit A.

JURISDICTIONAL BASIS FOR PETITION

Any person who files comments on a draft NPDES permit can petition the United States Environmental Protection Agency Environmental Appeals Board (the "Board") for review of the permit. 40 C.F.R. § 124.19(a). The Coalition filed comments on the draft Permit on February 6, 2015 and December 10, 2015, raising the issues presented in this Petition, among others. These comment letters are attached as Exhibits B and C, respectively. Therefore, the Board has jurisdiction over this matter.

PERMIT CONDITIONS CHALLENGED

The Coalition requests review of all conditions (1) that address the discharge of nitrogen from the Facility and the seasonal average total nitrogen effluent limit, including Permit Condition I.A.1.; and (2) that address the schedule for achieving compliance with Permit Condition I.E. regarding lagoon operations, including Permit Condition I.F.

FACTUAL BACKGROUND

I. The Facility

Prior to the issuance of the Permit on April 13, 2017, the Facility operated under a 2007 permit with an average design flow of 0.58 million gallons per day. *See* Fact Sheet for the Draft NPDES Permit No. MA010030 ("Fact Sheet," attached as Exhibit D) at 4, 6. According to a 2011 engineering study prepared for the Coalition (attached as Exhibit E), the Facility "accepts wastewater from [three] sewage lagoons, treats it through the sequencing batch reactor (SBR) system and ultraviolet disinfection (UV) system, and discharges treated wastewater" to an unnamed brook, via an 18-inch diameter outfall ("Outfall 001"). Horsley Witten Group, Inc., *Environmental Assessment of the Marion Wastewater Treatment Plant Sewage Lagoons*, Apr. 29, 2011 ("HWG Study") at 1. The unnamed brook flows into Aucoot Cove. *See* Fact Sheet at 4. The three lagoons are approximately 20.2 acres in total with a maximum depth of eight feet, allowing them collectively to hold over 26 million gallons of wastewater. HWG Study at 1, 9. The lagoons are unlined, i.e., there is "no impermeable geotextile membrane or clay layer" between the wastewater and the soil, and they leach nitrogen into the groundwater, which ultimately flows to Aucoot Cove and Sippican Harbor. *Id.* at 1, 8; Fact Sheet at 19; Buzzards Bay Coalition Comments on the Draft Permit, dated Feb. 6, 2015 ("BBC Comments") at 1.

After receiving the DPW's August 22, 2011 application for permit renewal, Region 1 prepared a draft permit ("Draft Permit," attached as Exhibit F) and opened a public comment period. The Town of Marion, the Coalition, and 44 Marion residents submitted comments. *See* EPA Region 1 Response to Comments on the Draft Permit ("Response to Comments," attached as Exhibit G) at 2. Region 1 issued its responses to the public comments and its final Permit, which authorizes the DPW to discharge from the Facility biochemical oxygen demand and total

suspended solids, bacteria, dissolved oxygen, ammonia nitrogen, total nitrogen, total phosphorous, and metals. *See* Permit at Part I.A.1. The Permit also requires the DPW to line the sewage lagoons or cease their operation within 48 months of the effective date of the Permit. *See id.* at Parts I.E., I.F.7.

II. The Receiving Waters

The receiving waters for the Permit are an unnamed brook and Aucoot Cove. In addition, Sippican Harbor receives groundwater polluted with nitrogen from the Facility's sewage lagoons. *See* Fact Sheet at 19; BBC Comments at 5. Because the brook does not have a specific water quality classification under Massachusetts regulation, it is automatically classified as a Class B High Quality Water. *See* 314 CMR 4.06; Fact Sheet at 5. Water with such a classification must have consistently good aesthetic value. *See* 314 CMR 4.05(3)(b); Fact Sheet at 5. Aucoot Cove and Sippican Harbor are classified as Class SA, "the most protective classification for saline waters," and are designated for shellfishing. In addition to having excellent aesthetic value, these designations mean that Aucoot Cove and Sippican Harbor should be "excellent habitat for fish and other aquatic life and wildlife." Fact Sheet at 5, 16; BBC Comments at 2.

The CWA requires states to list waterbodies that are not expected to meet Surface Water Quality Standards ("SWQS") after the implementation of technology-based controls (called the Section 303(d) list, after the CWA provision requiring issuance of the list). 33 U.S.C. § 1313(d)(2). Inner Aucoot Cove and Sippican Harboar are on Massachusetts' Section 303(d) list as impaired for total nitrogen, among other pollutants. *See* Fact Sheet at 6; BBC Comments at 1-4.

III. Nitrogen Pollution

Multiple sources contribute to the nitrogen load in Aucoot Cove, with the Facility being by far the largest contributor. Nonpoint and stormwater point sources contribute about 9.4 pounds of

nitrogen per day ("lbs/day") to Aucoot Cove; the Facility's Outfall 001 contributes about 13.75 lbs/day; and the Facility's sewage lagoons contribute about 45.753 lbs/day. *See* Fact Sheet at 21. Therefore, the total nitrogen load into Aucoot Cove is about 68.90 lbs/day, with approximately 59.50 lbs/day of that total coming from the Facility— most of which flows from the leaking lagoons. *See id*. EPA has concluded that "at existing levels, nitrogen in the [Facility] discharge has the reasonable potential to cause or contribute to water quality violations in Inner Aucoot Cove." *Id.* at 18.

To calculate a total nitrogen load for Aucoot Cove that would allow the waterbody to meet the SWQS, EPA started with a figure for total nitrogen concentrations that is generally protective of eelgrass, an aquatic plant that serves a critical function within estuarine ecosystems by providing essential fisheries habitat—and therefore serves as a good barometer of water quality for waterbodies designated for fish habitat, like Aucoot Cove. *See* Fact Sheet at 17; BBC Comments at 4. The Massachusetts Department of Environmental Protection ("MassDEP") determined that nitrogen levels protective of eelgrass should be "less than 0.39 mg/L and ideally less than 0.3 mg/L." Fact Sheet at 17. A monitoring station in an area of Aucoot Cove that currently supports eelgrass has a median total nitrogen concentration of 0.35 mg/L, although notably, the eelgrass is still diminishing over time, even at this level. *See id*.

Using 0.35 mg/L as the threshold nitrogen concentration, EPA estimated that the total nitrogen load in Aucoot Cove from the Facility (Outfall 001 and the lagoons) could not exceed 25.05 lbs/day in order to meet water quality standards. *See* Fact Sheet at 22. If the lagoons were immediately lined or closed and the full 25.05 lbs/day were allocated just to Outfall 001, the Facility running at its design flow of 0.588 MGD would correlate to a total nitrogen concentration of 5.11 mg/L. *See id.* However, it takes at least 20 years for the groundwater to travel from the

lagoons to Aucoot Cove, so nitrogen will continue to migrate from the vicinity of the lagoons to Aucoot Cove for years to come, thereby necessitating a nitrogen effluent limit from Outfall 001 of "well below" 5.11 mg/L to accommodate the nitrogen load from groundwater and meet water quality standards. *Id.*

The Draft Permit set the monthly average total nitrogen effluent limit at 3.0 mg/L, "which is considered the limit of technology for nitrogen treatment," for a total loading of 14.71 lbs/day from Outfall 001. *Id.*; *see* Draft Permit at Part I.A.1. "EPA determined that, as a first step, imposing a limit of 3 mg/L, which is consistent with maximizing nitrogen reductions based on available technology, is . . . reasonable at this time in order to allow the Town the opportunity to take steps to control nitrogen exfiltration from the lagoons." Fact Sheet at 22. EPA found this level to be "adequate to comply with Section 301 of the CWA if imposed in conjunction with other efforts to address the nonpoint source component of the nitrogen pollution problem afflicting the receiving waters." *Id.* at 24. The DPW would be given 60 months to improve the Facility in ways needed to meet the 3.0 mg/L limit. Draft Permit at Part I.F.9.

The Permit ultimately increased (i.e., relaxed) the total nitrogen effluent limit from 3.0 mg/L to 4.0 mg/L, and because Outfall 001 already meets this limit (with an average total nitrogen level of 3.46 mg/L), the Permit eliminated any timeframe for compliance. *See* Permit at Part I.A.1.; Response to Comments at 3, 91-92. Region 1 explained its switch from a 3.0 mg/L nitrogen limit to a 4.0 mg/L limit as: "Upon closure and/or lining of the lagoons as required by the permit, a significant ongoing source of nitrogen loading to the Aucoot Cove watershed will be eliminated. Based on EPA's estimate of other nonpoint source loadings of nitrogen (9.4 lbs/day) and the draft permit point source nitrogen loading (14.7 lbs/day), the resultant total nitrogen load is less than the allowable nitrogen loading threshold of 34.5 lbs/day." Response to Comments at 36; *see*

Response to Comments at 92. The Permit also switches the total nitrogen effluent standard from a monthly average limit to a seasonal average limit because "the loading analysis that was used to determine the [total nitrogen] limit was based on seasonal average." *Id.* at 94, 97.

The Permit also relaxes the requirements of the Draft Permit regarding nitrogen pollution from the leaking lagoons by requiring the DPW to "cease the placement, storage, and disposal of sludge and other treatment related solids in unlined lagoons, cease the use of the unlined lagoons for storage of wastewater, and remove sludge solids currently in the lagoons, in accordance with state and federal regulations." Permit at Part I.E. The DPW must, within 12 months of the effective date of the permit, submit a plan to achieve compliance with the lagoon requirements, and it must completely comply with all lagoon requirements within 48 months. *See id.* at Parts I.F.2., I.F.7. The Permit eliminates language in the Draft Permit providing that if the DPW decided to line the lagoons or implement an alternative method for sludge disposal and wastewater storage, then full construction of the liner and/or an alternative solution must be completed in 36 months. *See* Draft Permit at Parts I.F.5.b., I.F.6.b.; Response to Comments at 4; BBC Comments at 7. Region 1 found that removing this interim deadline at 36 months "is consistent with the requirement for achieving compliance as soon as reasonably possible." Response to Comments at 84-85.

ARGUMENT

The conditions in a NPDES permit must "ensure compliance with the applicable water quality requirements of all affected States" without consideration of the cost, availability, or effectiveness of treatment technologies. 40 C.F.R. § 122.4(d); *see* 40 C.F.R. § 122.44 ("[E]ach NPDES permit shall include conditions meeting . . . (d) water quality standards and State requirements . . ."); Fact Sheet at 7. It is well established that the Board will grant review of a NPDES permit when the permit decision "is based on clearly erroneous finding of fact or

conclusion of law or involves a matter of policy or exercise of discretion that warrants review." *See, e.g., In Re: Town of Concord Dep't of Pub. Works,* NPDES Appeal No. 13-08, 2014 WL 4310902, at *2 (E.P.A. Aug. 28, 2014) (citing 40 C.F.R. § 124.19(a)(4)). "When evaluating a challenged permit decision for clear error, the Board examines the administrative record that serves as the basis for the permit to determine whether the permit issuer exercised considered judgment. The permit issuer must articulate with reasonable clarity the reasons supporting its conclusion and the significance of the crucial facts it relied upon when reaching its conclusion. As a whole, the record must demonstrate that the permit issuer duly considered the issues raised in the comments and ultimately adopted an approach that is rational in light of all information in the record." *Id.* at *3 (internal citations and quotations omitted).

In contravention of the CWA and its implementing regulations, the Permit conditions fail to establish nitrogen levels and a timeframe for lining or closing the sewage lagoons sufficient to protect water quality standards in the Aucoot Cove. Consequently, under the well-established standards of review, the Board should review and remand certain Permit provisions due to their basis in clearly erroneous findings of fact or conclusions of law and/or Region 1's abuse of discretion. *See* 40 C.F.R. § 124.19.

I. Region 1's Total Nitrogen Limit is Based on Clearly Erroneous Findings of Fact and an Abuse of Discretion

There are two components of the Permit's total nitrogen limit that are arbitrary, clearly erroneous, and an abuse of Region 1's discretion: the 4.0 mg/L total nitrogen effluent limit for the Facility and the establishment of this limit as a seasonal average instead of a monthly average. *See* BBC Comments at 7; Buzzards Bay Coalition Supplemental Comments on the Draft Permit, dated Dec. 10, 2015 ("BBC Supp. Comments") at 1-2.

A. Total Nitrogen Effluent Limit

As discussed in the Factual Background section, the Draft Permit set the total nitrogen effluent limit at 3.0 mg/L to accommodate uncertainty in the amount of nitrogen that will continue to leach from groundwater to Aucoot Cove even after the sewage lagoons are lined or closed: "effluent nitrogen concentrations need to be reduced well below 5 mg/L to achieve water quality standards in Aucoot Cove during the permit term." Fact Sheet at 22; *see* Draft Permit at Part I.A.1. The Draft Permit recognized that other nitrogen reductions may obviate the need for a 3.0 mg/L limit and allowed the DPW to request a permit modification if it could demonstrate that a higher limit would still allow Aucoot Cove to meet water quality standards. *See* Fact Sheet at 23. Thus, the Draft Permit established the 3.0 mg/L limit as a key element of achieving water quality standards.

Region 1 abused its discretion in abandoning, without any rationale, this 3.0 mg/L limit and the methodical approach for assessing nitrogen loading after lining or closure of the lagoons—and instead increasing the limit above the existing average total nitrogen level at Outfall 001 (3.46 mg/L). Region 1 in its response to comments on the Draft Permit fails to specify the reasons for this change, contrary to CWA regulations and Board precedent. *See, e.g.*, *In Re: Town of Concord Dep't of Pub. Works*, NPDES Appeal No. 13-08, 2014 WL 4310902, at *8 (E.P.A. Aug. 28, 2014) (finding that EPA Region 1 must "specify" in the response to comments "which provisions, if any, of the draft permit have been changed in the final permit decision, and the *reasons for the change*") (quoting 40 CFR § 124.17(a)(1), with emphasis added by the Board).

In raising the nitrogen effluent limit, Region 1 appears to discard the calculations described in the Fact Sheet and summarily conclude that based on the amount of nonpoint source nitrogen loading and the lining or closure of the sewage lagoons, a 4.0 mg/L total nitrogen effluent limit is

adequate to meet water quality standards. *See* Response to Comments at 36. However, this putative rationale ignores that the uncertainty in the amount of nitrogen-contaminated groundwater that will continue to leach into Aucoot Cove after lining or closure of the sewage lagoons was the reason for setting a 3.0 mg/L standard. *See* Fact Sheet at 22, 24; BBC Comments at 7. Region 1's response to comments fails to explain why the 4.0 mg/L limit is now adequate to meet water quality standards or why a higher or lower number would have been inadequate—again contravening CWA regulations and established precedent. *See In Re City of Marlborough, Massachusetts Easterly Wastewater Treatment Facility*, 12 E.A.D. 235, at *6 (E.P.A. Aug. 11, 2005) (remanding a permit condition to Region 1 because "the Region has not sufficiently explained where or how [the supportable basis for its permit determination] is reflected in the record before us"). Such an irrational and conclusory explanation for the reversal from a 3.0 mg/L limit to a 4.0 mg/L limit does not indicate that Region 1 exercised "considered judgment" and is clearly erroneous and an abuse of discretion. *See In Re: Town of Concord Dep't of Pub. Works*, NPDES Appeal No. 13-08, 2014 WL 4310902, at **17-18 (remanding the NPDES permit pH limits back to Region 1 because the Board was unable to determine whether Region 1 exercised considered judgment in deciding to alter the pH limit, as "the Region failed to explain *why* the level of dilution suddenly was no longer sufficient . . . [or] *whether* or *how* the unspecified 'operational conditions' had changed and the relevance thereof").

The jump to a 4.0 mg/L limit is particularly irrational in light of the record, which is reflected in the Fact Sheet and the public comments. *See id.* at *3 (finding that EPA's permitting decisions will be considered clear error when the approach is not rational "in light of all information in the record"). EPA's initial calculations for an effective total nitrogen effluent limit started with a maximum nitrogen concentration of 0.35 mg/L, which is already a lenient standard;

while this concentration is generally protective of eelgrass, EPA recognizes that the coverage of eelgrass in Aucoot Cove has continued to diminish over time, even with a nitrogen concentration of 0.35 mg/L. Fact Sheet at 18 ("GIS data collected by MassDEP and analyzed by EPA indicate that eelgrass coverage in Aucoot Cove has retreated from its historical extent."); *see* BBC Comments at 3-4. The Coalition's comments on the Draft Permit recommended selecting a threshold concentration of 0.3 mg/L, noting that it is "common practice to establish a more conservative and therefore more protective nitrogen threshold when some uncertainty exists." BBC Comments at 4. Therefore, if Region 1 were to make any reasonable, informed change to the nitrogen effluent limit, it should have decreased the 3.0 mg/L limit to reflect the goal of a 0.3 mg/L total nitrogen concentration (although the Coalition recognizes that 3.0 mg/L is widely considered the current limit of technology for nitrogen treatment in the northeastern U.S.). Instead of maintaining the 3.0 mg/L limit, Region 1 increased the limit to 4.0 mg/L, which bears no relationship to any total nitrogen concentration, let alone one that is protective of eelgrass and therefore the Aucoot Cove water quality.

Furthermore, without explanation, the Permit shifts the burden to EPA to impose a more stringent nitrogen limit in the future if "new information indicates that the other non-point sources of nitrogen are significantly higher than EPA's estimate and/or water quality continues to show signs of impairment relative to water quality standards." Response to Comments at 36. In contrast, the Draft Permit opted for a more stringent nitrogen limit at the outset and allowed the DPW to seek a permit modification upon proof that the standards <u>are</u> being met. *See* Fact Sheet at 23. The approach taken in the Draft Permit is clearly more protective of water quality and reflects EPA's mandate under the CWA to control pollutants that are or may be discharged at a level that contributes to or may contribute to an excursion of SWQS. *See* 40 CFR § 122.44(d)(1)(i).

B. Seasonal Versus Monthly Average

As noted, the CWA regulations and Board precedent require the EPA region issuing the permit to explain the reasons for any changes between the draft and final permits and the "significance of the crucial facts it relied upon when reaching its conclusion." *In Re: Town of Concord Dep't of Pub. Works*, NPDES Appeal No. 13-08, 2014 WL 4310902, at *8 (E.P.A. Aug. 28, 2014). Region 1 asserts that it switched from a monthly to a seasonal average total nitrogen limit between the Draft Permit and the Permit to reflect "the time span of the environmental effects and the time span of the loading analysis." Response to Comments at 94, 97. However, Region 1 fails to explain why the time span of the environmental effects and loading analysis necessitates a different type of total nitrogen limit. The Coalition submitted comments explaining that a seasonal average nitrogen limit is not sufficiently stringent to achieve compliance with Aucoot Cove water quality standards. BBC Supp. Comments at 1-2. Region 1 did not respond to this argument. *See* Response to Comments at 97-98. Region 1's failure to explain why it changed the total nitrogen effluent limit from a monthly to a seasonal average, and why the seasonal average limit would be protective of water quality, is an abuse of discretion.

II. Region 1's Compliance Schedule for Lining the Sewage Lagoons and/or Implementing an Alternative Solution is an Abuse of Discretion

The CWA requires EPA to set compliance schedules in NPDES permits that achieve compliance "as soon as possible." 40 CFR § 122.47(a)(1). In the Draft Permit, EPA required the DPW to fully construct the lagoon liners and/or an alternative solution within 36 months, which presumably was as soon as possible. *See* Draft Permit at Parts I.F.5.b., I.F.6.b. However, Region 1 eliminated this requirement in the Permit, instead requiring compliance within 48 months. *See* Permit at Part I.F.7. Its only rationale for the change in compliance scheduling is that the 48-month schedule "is consistent with the requirement for achieving compliance as soon as reasonably

possible." Response to Comments at 84-85. This determination is clearly an abuse of discretion; if 36 months is "as soon as possible," then 48 months is not. Moreover, Region 1 provides no explanation as to why compliance with the lagoon requirements could not be achieved within 36 months. *See id.* Nor does the DPW, which only argues that the 36-month requirement for installation of liners contradicts the 48-month requirement for completion of all lagoon-related permit conditions. *See id.* at 83-84.

In responding to the Coalition's comment that the EPA should maintain an expedited schedule for lining or closing the lagoons, Region 1 ignores the Draft Permit 36-month deadline altogether: "The final permit contains a compliance schedule of 48 months for the Town to close or line the lagoons such that they are not a source of nitrogen to the groundwater and to discontinue the placement of sewage in unlined sewage lagoons, which is the same as in the draft permit." Response to Comments at 99; *see* BBC Supp. Comments at 2; *see also* BBC Comments at 7-8. EPA's failure to evaluate the Coalition's comment and articulate the reasons for reaching its conclusions in the Permit constitutes clear error and warrants remand of this Permit condition. *See, e.g.*, *In Re: Town of Concord Dep't of Pub. Works*, NPDES Appeal No. 13-08, 2014 WL 4310902, at *3 (E.P.A. Aug. 28, 2014) ("When evaluating a challenged permit decision for clear error, the Board examines the administrative record that serves as the basis for the permit to determine whether the permit issuer exercised considered judgment. . . . As a whole, the record must demonstrate that the permit issuer duly considered the issues raised in the comments and ultimately adopted an approach that is rational in light of all information in the record.") (internal quotations and citations omitted); *In Re City of Marlborough, Massachusetts Easterly Wastewater Treatment Facility*, 12 E.A.D. 235, at *8 (E.P.A. Aug. 11, 2005) (remanding a permit decision where Region 1's only explanation for changing permit language from "an interim limit of 0.5

mg/l shall be met" in the draft permit to "the 0.5 mg/l limit is an 'interim seasonal average total phosphorus limit'" in the final permit was that "[t]he agencies have modified the language relative to the interim limit to indicate that the 0.5 mg/l limit is a seasonal average limit").

The one-year delay in installation of lagoon liners or an alternative method for sludge disposal and/or wastewater storage is particularly irrational considering the substantial amount of nitrogen that the lagoons contribute to Aucoot Cove and the pivotal role that elimination of this nitrogen source plays in achieving the water quality standards. EPA has determined that the "use of unlined lagoons for flow equalization and sludge disposal is not in compliance with the operation and maintenance requirements of 40 C.F.R. § 122.41(e)." Fact Sheet at 19. Multiple EPA guidance documents reiterate that lagoons such as those at the Facility are not environmentally acceptable solutions for sludge disposal. *See id.* at 20. It is undisputed that the sewage lagoons at the Facility contribute to the nutrient impairment in Aucoot Cove. *See id.* at 19. The HWG Study conducted on behalf of the Coalition and considered by EPA to be the "best available estimate of the nitrogen loading to Aucoot Cove from the lagoons" concluded that the lagoons leach approximately 45.753 lbs/day of nitrogen. HWG Study at 8; Fact Sheet at 21.

Given this outsized contribution to the nitrogen impairment of Aucoot Cove, EPA has concluded that "point source reductions from the [Facility] alone cannot achieve water quality standards in Aucoot Cove" and that "controlling exfiltration from the lagoons may be a more significant benefit to Aucoot Cove than further control of nitrogen in the treatment plant discharge." Fact Sheet at 22-23. Therefore, eliminating nitrogen pollution from the lagoons is clearly imperative to achieving the objectives of the Permit, the Aucoot Cove water quality standards, and the CWA, which requires NPDES permits to control pollutants that are or may be discharged at a level that contributes to or may contribute to an excursion of SWQS. *See* 40 CFR

§ 122.44(d)(1)(i). It is erroneous and an abuse of discretion to delay compliance with this requirement, especially without a rational explanation as to the feasibility of compliance under the shorter timeframe.

CONCLUSION

Region 1 clearly erred and/or abused its discretion by imposing conditions on nitrogen loading and use of sewage lagoons at the Facility that do not ensure compliance with applicable water quality requirements. The Coalition respectfully seeks review of the Permit terms and provisions by the Board. After such review, the Coalition requests:

1. The opportunity to present oral argument in this proceeding to explain our Petition for Review and underlying concerns identified herein;
2. A remand of the Permit to Region 1 with an order to strike the conditions challenged by the Coalition and to require a 3.0 mg/L monthly average nitrogen limit and a timeframe for compliance, as well as a 36-month timeframe for lining of the sewage lagoons; and
3. All other relief that the Board deems appropriate under the circumstances.

Dated: May 15, 2017

Respectfully submitted,

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List of Exhibits

Exhibit A	April 13, 2017 Final NPDES Permit No. MA0100030
Exhibit B	February 6, 2015 Buzzards Bay Coalition Comments on the Draft NPDES Permit
Exhibit C	December 10, 2015 Buzzards Bay Coalition Supplemental Comments on the Draft NPDES Permit
Exhibit D	Fact Sheet for the Draft NPDES Permit No. MA0100030
Exhibit E	Horsley Witten Group, Inc., *Environmental Assessment of the Marion Wastewater Treatment Plant Sewage Lagoons*, April 29, 2011
Exhibit F	Draft NPDES Permit No. MA0100030
Exhibit G	EPA Region 1 Response to Comments on the Draft NPDES Permit No. MA0100030

Statement of Compliance with the Word Limit

I hereby certify that this Petition for Review, including all relevant portions, contains less than 14,000 words.

By: _____
Mark A. Chertok, Esq.

Dated: May 15, 2017

Certificate of Service

I, Alexis Saba, hereby certify that I have served a copy of the foregoing Petition for Review and attachments on the following by Federal Express, this 15th day of May 2017:

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