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July 9, 2008

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G. Street, N.W., Suite 600
Washington, D.C. 20005

RE: **Petition for Review**
City of Attleboro, Massachusetts Water Pollution Control Facility
NPDES Permit MA0100595

Dear Sir/Madam,

Please find enclosed the Rhode Island Department of Environmental Management's Petition for Review of the decision of the Region One Administrator, granting NPDES Permit Number MA0100595 to the Attleboro, Massachusetts Water Pollution Control Facility, along with three copies of the same, in accordance with EAB Practice Manual, Section III.D.3. Please see that this Petition for Review is filed in the usual manner.

Thank you for your prompt attention to the above. Please do not hesitate to contact me at the above address or telephone if there are any problems or questions regarding this submission.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. Forcier'.

Susan B. Forcier, Esq.
Legal Counsel

Enclosures

Cc: MADEP, Division of Watershed Management

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

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ENVIR. APPEALS BOARD

_____)
In re:)
)
City of Attleboro, Massachusetts)
Wastewater Treatment Facility)
)
NPDES Permit MA0100595)
)
_____)

NPDES Appeal No. _____

PETITION FOR REVIEW

Now comes the Rhode Island Department of Environmental Management, by and through its undersigned attorney, and, pursuant to 40 C.F.R. § 124.19(a), hereby files its Petition for Review of the decision of the Environmental Protection Agency, Region One granting the above-referenced National Pollution Discharge Elimination System (NPDES) Permit Number MA0100595.

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INTRODUCTION

Pursuant to 40 C.F.R. § 124.19(a), the Rhode Island Department of Environmental Management (“Petitioner” or “RIDEM”) petitions for review of the conditions of NPDES Permit Number MA0100595 (“the Permit”), which was jointly issued to the City of Attleboro Department of Water and Wastewater (“Permittee” or “Attleboro”) on June 9, 2008, by the U.S. Environmental Protection Agency, Region One (“Region One” or “the Region”) and the Massachusetts Department of Environmental Protection (“MADEP”).

The permit at issue in this proceeding authorizes the Permittee to discharge from its facility located at the Attleboro Water Pollution Control Facility (“the WPCF” or “the Facility”) to the receiving water named Ten Mile River in accordance with effluent limitations, monitoring requirements, and other conditions specified in the Permit. Petitioner contends that certain permit conditions are based on clearly erroneous findings of fact and conclusions of law, and/or are based on an exercise of discretion or an important policy consideration which the Environmental Appeals Board (“the Board”) should, in its discretion, review. Specifically, Petitioner challenges the following permit conditions:

- 1) Part I.A. Effluent Limitations and Monitoring Requirements relating to certain metals.

THRESHOLD PROCEDURAL REQUIREMENTS

Petitioner satisfies the threshold procedural requirements for filing a petition for review under 40 C.F.R. Part 124, to wit:

1. Petitioner has standing to petition for review of the permit decision because it participated in the public comment period on the Permit. *See* 40 C.F.R. § 124.19(a); *See also* Written Correspondence of RIDEM Containing Comments on Draft Permit MA0100595, dated September 12, 2006 (“RIDEM Comments”), attached hereto as Exhibit C.
2. The issues raised by Petitioner in this petition were raised during the public comment period and therefore were preserved for review. *See* Exhibits B & C, attached.

STATUTORY AND FACTUAL BACKGROUND

The NPDES Regulations and the Clean Water Act (CWA) both require that the Region impose permit conditions that will ensure that all applicable water quality requirements of all affected states will be met. 40 C.F.R. §§ 122.4, 122.44; CWA Section 401, 402. The applicable water quality regulations for Massachusetts are found at 314 CMR 4.00 *et seq.*, and for Rhode Island are found in the RI Water Quality Regulations. This permit was issued by the Region under 40 C.F.R. 402(a), and by MADEP under MGL Ch. 21, § 43. This appeal is brought with the Environmental Appeals Board under 40 C.F.R. § 124.19(a).

The Facility is an 8.6 million gallon per day (“MGD”) wastewater treatment facility located in Attleboro, Massachusetts, which discharges into Ten Mile River at a location approximately two hundred (200) yards upstream from the Rhode Island border. *See* Fact Sheet for Draft NPDES Permit MA0100595 at 4-6 (“Fact Sheet”), attached hereto as Exhibit A. The Facility is engaged in the collection and treatment of municipal and industrial wastewater, through a process which consists of primary clarification, first and second stage aeration and clarification, rapid sand filtration, chlorination, sulfur dioxide dechlorination¹, and post aeration, with the sludge deposited in a sludge only landfill. *Id.* at 4. Ten Mile River flows south from Plainville through North Attleborough, where it receives discharge effluent from the North Attleborough Wastewater Treatment Facility (WWTF), and Attleboro, as well as Seekonk, Massachusetts, before continuing into Rhode Island, through the Ten Mile River Reservation and Slater Memorial Park before entering the Turner Reservoir and eventually discharging into the Seekonk River and Narragansett Bay. *Id.*

¹ In its comments on September 14, 2006, the City of Attleboro commented that the new chemical used for dechlorination is sodium bisulfate. *Response to Comments*, p. 49, comment E.6.

Massachusetts has designated the Ten Mile River, from its source to the RI border, as a Class B Warm Water Fishery, meaning that it is designated as habitat for fish, other aquatic life, and wildlife, and for primary and secondary contact recreation. 314 CMR 4.05(3)(b); Fact Sheet at 4-5. Massachusetts Class B designated waters are suitable as a source of public water supply with appropriate treatment, and are suitable for irrigation and agricultural uses. *Id.*

Rhode Island has designated the Ten Mile River as Class B1 water from the Massachusetts border to the Newman Avenue Dam in East Providence, and as Class B waters from the Newman Avenue Dam to the discharge into the Seekonk River. Rhode Island Class B designated waters are suitable for fish and wildlife habitat and for primary and secondary recreational uses. RI Water Quality Regulations, Rule 8(B)(1)(c). Class B waters are also suitable for compatible industrial process and cooling, hydropower, aquacultural uses, navigation, irrigation, and other agricultural uses. *Id.* Class B1 waters have the same designated uses, except that primary contact recreational uses may be impacted by pathogens from approved wastewater discharges. RI Water Quality Regulations, Rule 8(B)(1)(d). The Seekonk River is a marine water designated by RI as SB{a} water, meaning that it is designated for primary and secondary contact recreation, shellfish harvesting for controlled relay and depuration, and fish and wildlife habitat, and is further suitable for aquacultural uses, navigation and industrial cooling, except that the {a} designation indicates that primary recreation, shellfishing, and fish and wildlife habitat will likely be restricted because the water is likely impacted by combined sewer overflows (CSO) in accordance with CSO facilities plans. RI Water Quality Regulations, Rule 8(B)(2)(b) and Appendix A.

It is undisputed that the Ten Mile River is impaired and not currently meeting the water quality standards of either Massachusetts or Rhode Island. *See* Fact Sheet at 4-6. The Ten Mile

River and some of its impoundments are listed on both states' CWA § 303(d) Lists of Impaired Waters as waters that are impaired and in need of one or more total maximum daily loads (TMDLs) to reduce pollutant loadings into the river in order for it to meet water quality standards; the Seekonk River, where the Ten Mile River ultimately discharges, is also listed on Rhode Island's CWA § 303(d) list. *Id.* None of these waters currently has a completed TMDL in place, but one is underway for the Seekonk River for nutrients, low DO, and excess algal growth/chlorophyll (a). The State of Rhode Island has also performed a physical model for the impacts of total nitrogen on water quality standards in the Seekonk River, Providence River, and Upper Narragansett Bay, which includes recommended total nitrogen effluent limitations for publicly owned treatment works (POTWs) discharging to those water bodies. *Id.* at 5-6.

Further, it is undisputed that one reason why the Ten Mile River is failing to meet water quality standards in both states is due to excessive metals. The segment of the Ten Mile River from the North Attleborough WWTF to the RI border, which includes the permitted discharge for this Facility is listed by Massachusetts as impaired due to unknown toxicity, metals, nutrients, organic enrichment/low dissolved oxygen, pathogens and noxious aquatic plants. *See Id.* at 5 and *Massachusetts Year 2004 Integrated List of Waters*. The surface waters of the Ten Mile River in RI can be divided into three distinct segments: the free flowing river, Turner Reservoir and Omega Pond. The three freshwater segments of the River are listed by RI as impaired due to excessive copper, lead, and cadmium; copper, lead, low dissolved oxygen, and phosphorous; and for copper, lead, and phosphorous, respectively. *See Rhode Island 303 (d) List: List of Impaired Waters*, dated November 2006. The Seekonk River, as discussed above, currently has a TMDL underway for various constituents. *See Id.* and Fact Sheet at 5.

ISSUES PRESENTED FOR REVIEW

- 1) Whether the Region committed reviewable error in failing to impose permit conditions that will ensure compliance with all applicable water quality standards, as required by the Clean Water Act and the NPDES Regulations.

- 2) Whether the Region committed reviewable error in failing to adequately respond to Petitioner's comments on the draft permit, as required by the NPDES Regulations.

ARGUMENT

I. Standard of Review

In proceedings properly brought under 40 C.F.R. Part 124, the Board will generally grant review when the petition for review clearly establishes that the permit condition(s) in question is based on either “a finding of fact or conclusion of law which is clearly erroneous, or an exercise of discretion or an important policy consideration which the Board should, in its discretion, review.” 40 C.F.R. § 124.19 (a).

The petitioner bears the burden of proof for demonstrating that review is warranted and for demonstrating that any issues being raised for review before the Board were preserved for review during the public comment period. *Id.*; 40 C.F.R. § 124.13. Issues being raised for review before the Board must have been raised with sufficient specificity during the public comment period, either by the Petitioner or by another commenting party. *Id.* Finally, it falls to the petitioner to “include specific information in support of their allegations. It is not sufficient simply to repeat objections made during the comment period; instead a petitioner ‘must demonstrate why the [permit issuer’s] response to those objections (the [permit issuer’s] basis for its decision) is clearly erroneous or otherwise warrants review.’” *Id.*; *In re Steel Dynamics, Inc.*, 9 E.A.D. 740, 744 (EAB 2001) (quoting *In re LCP Chemis.*, 4 E.A.D. 661, 664 (EAB 1993)).

II. The Region's Failure to Condition Permit Limits to Ensure Compliance with All Applicable Water Quality Standards was Based on Clearly Erroneous Findings of Fact and Conclusions of Law, was Based on an Inappropriate Exercise of Discretion, and Warrants Review by the Environmental Appeals Board.

The NPDES regulations prohibit the Region from issuing a permit unless the imposition of its conditions can “ensure compliance with the applicable water quality requirements of all affected states.” 40 C.F.R. § 122.4(d). With regard to this Permit, both Massachusetts, where the effluent discharge is taking place, and Rhode Island, where the receiving water flows and ultimately discharges into the Seekonk River and Narragansett Bay, are affected states, and as such, the Region is required to consider the water quality standards of both states in making decisions regarding this Permit. Further, both the NPDES Regulations and the Clean Water Act require the Region to consider the views of a downstream affected state regarding whether a discharge “will affect the quality of its waters so as to violate any of the state’s water quality requirements in such state.” 40 C.F.R. 122.44(d); CWA § 401(a)(2). If the Region agrees that a discharge would cause or contribute to any such violations, the permit must be conditioned to ensure compliance with those water quality standards. *Id.* Additionally, permit limits must be included in permits where pollutants will cause, have reasonable potential to cause, or contribute to an exceedance of the state’s water quality standards. 40 C.F.R. § 122.44(d).

The Petitioner submitted comments during the public comment period for the draft permit. *See* Exhibit C, attached. The Petitioner’s comments related to the permit limits contained in the draft permit, and to the fact that the limits, as set out in the draft permit, would result in violations of the Rhode Island water quality standards at the state line. Specifically, the issue raised in this Petition for Review, the Region’s establishment of permit limits for various metals, was expressly raised in the petitioner’s comments. *See Id.*

A. The Region's response to the Petitioner's comments submitted during the public comment period was insufficient and erroneous, and failed to satisfy the standard set out in the NPDES Regulations and relevant case law.

It is the Region's duty is to consider all relevant factors and set permit limits that will ensure compliance with all applicable water quality standards.40 C.F.R. §§ 122.4, 122.44. In this instance both Massachusetts and Rhode Island are affected states, and the standards of both states are applicable; the Region is required to consider all relevant information and set permit limits accordingly. The requirement that all relevant factors and information be considered means that the Region must take into account any and all available data relevant to the determination and conditioning of permit limits for the receiving waters at issue.

The Ten Mile River, its impoundments and its discharge waters are currently in violation of the water quality standards of both Massachusetts and Rhode Island. *See* Fact Sheet at 4-6, *Massachusetts Year 2004 Integrated List of Waters*, and *Rhode Island 303 (d) List: List of Impaired Waters*. Therefore, it is especially critical, not only that the limits set in the permit are adequate to ensure that the discharge does not lead to violations of specific numerical and narrative water quality standards, but also to ensure that the anti-degradation provisions of all applicable water quality regulations are complied with and the already-impaired discharge waters are not further degraded by the addition of the permitted discharge.

In this instance, the Facility being permitted is just two hundred yards upstream from the Rhode Island border, meaning that the downstream affected state's waters are disproportionately impacted by the permitted discharge. Petitioner respects the fact that, regardless of how far from the downstream affected state the discharge is occurring, the Region must consider all applicable water quality standards in setting permit limits. However, it is a matter of equity in situations such as this that the water quality conditions of the downstream state should be given especially

careful consideration in setting the permit limits that will so affect that state's already-impaired waters.

In setting the permit limits for nitrogen and phosphorous, the Region placed special emphasis on Rhode Island water quality standards. Specifically, the Region tailored the nitrogen and phosphorous limits to ensure compliance with Rhode Island standards despite other commenters' arguments that a Massachusetts facility should not be forced to conform their effluent to meet Rhode Island standards, especially when Massachusetts does not require adherence to similar standards. In the Response to Comments, the Region acknowledged its duty to ensure compliance with all applicable standards and, at least with regard to nitrogen and phosphorous, to pay specific attention to Rhode Island water quality standards, recognizing that the effluent discharge is just two hundred yards upstream from the RI border and that special conditions in Rhode Island require stricter standards. *See Response to Comments.* The Region has a duty as the permit issuer to consider unique characteristics of any downstream receiving waters. The Region did its duty in this instance, at least with regard to nitrogen and phosphorous, when it considered the marine waters of the Seekonk River eight miles downstream of the permitted discharge, and set appropriate permit limits to ensure that Rhode Island water quality standards would be met at the point when the effluent finally entered the Seekonk River.²

The Region failed, however, in establishing permit limits for metals discharges, to consider all relevant information relating to metals hardness levels in the Ten Mile River and its impoundments and discharge waters in Rhode Island. In its comments, Petitioner questioned the

² Petitioner notes that the phosphorous limit was revised in response to Petitioner's comments, in order to ensure compliance with the Rhode Island water quality standards. Petitioner did not submit further comments on the revised limits, and expects that should it become clear that additional reductions are necessary, Petitioner anticipates that the Region will pursue such additional reductions.

Region's assumptions regarding the hardness values applicable for establishing the permit limits, and the fact that those values were significantly higher than those typically observed in Rhode Island waters. The Region failed to account for all relevant data in responding to Petitioner's comments.

- i. **The Region failed to consider all relevant data in establishing permit limits for certain metals, and therefore those permit limits were based on erroneous findings of fact and conclusions of law, and were an inappropriate exercise of discretion warranting review.**

It is the Region's responsibility to impose conditions that will ensure compliance with the applicable water quality requirements of all affected states. 40 C.F.R. § 122.4(d). Further, it is the permit issuer's duty to "articulate with reasonable clarity the reasons for its conclusions and [to] adequately document its decision making." *In re Ash Grove Cement Co.*, 7 E.A.D. 387, 417-18 (EAB 1997). In the present case, the Region failed to consider all relevant and available data in establishing the permit limits for metals and in responding to the petitioner's comments thereon, and thereby relied on erroneous findings of fact in setting the permit limits as it did. The Region's response to the Petitioner's comments was inadequate and erroneous in its failure to account for all relevant and available information regarding the Region's decisions relating to the permit limits.

Specifically, the Petitioner's comments questioned the Region's decision to assume a hardness value of 100 mg/l to compute the water quality criteria and set the permit limits for metals. Petitioner pointed out that this value was significantly higher than values typically observed in RI waters, resulting in higher water quality criteria than Petitioner would anticipate. See Response to Comments, p. 41, Comment C.1, attached as Exhibit B, and Written Correspondence of Rhode Island Department of Environmental Management, dated September

12, 2006, attached as Exhibit C. In response to the Petitioner's comments, the Region stated that "Hardness data from Attleboro's quarterly toxicity tests conducted during the summer low flow period indicate that the average in-stream hardness above the North Attleborough discharge . . . was 162 mg/l for 2002-2004 with a range of 100 mg/l – 253 mg/l. Using 100 mg/l for calculating the numeric criteria ensures that the criteria will be protective of in stream uses" *See Response to Comments*, p. 43, Response C.1, attached as Exhibit B.

The City of Attleboro, though its consultant CDM, also submitted comments on the Region's decision to assume a hardness value of 100mg/l, arguing instead that higher values were typically observed upstream of the North Attleborough WWTF, and stating that the Region should instead have applied a value of 207 mg/l. *See Id.* at 38, Comment B.3. In response to CDM, the Region correctly reasoned that "In determining appropriate hardness levels for permit limit development, EPA focuses on low flow conditions in order to approximate hardness levels during the critical conditions. . . . Using an in-stream hardness value of 100 mg/l ensures that criteria will be met under all effluent and receiving water conditions." *Id.* at 39, Response B.3.

While the Region's reasoning that the use of the lowest observed hardness values during low flow conditions, in order to approximate critical conditions, is correct, the use of those values for the waters upstream of the North Attleborough WWTF rather than the actual observed values throughout the waters in Rhode Island is inappropriate and results in permit conditions that are based on erroneous findings of fact. The Region failed to consider the 2007-2008 joint surface water sampling program in the Ten Mile River Watershed, undertaken by the Petitioner in conjunction with the MADEP. That sampling program revealed that in the Rhode Island portion of the Ten Mile River, beginning two hundred yards downstream from the Facility, observed hardness values are considerably lower than those cited by the City and relied upon by

the Region for dilution waters upstream of the North Attleborough WWTF. The Rhode Island waters sampled in the 2007-2008 sampling program are the actual waters receiving the discharge from the Facility, and are the waters that the Region must, by law, ensure compliance with water quality standards for in conditioning permit limits.

The sampling plan for the project, entitled "SAMPLING PLAN SURFACE WATER MONITORING IN THE, TEN MILE RIVER WATERSHED, Year 2007" was approved by the Region. Along the RI portion of the River, sampling was conducted at eight stations, commencing at the MA/RI state line and terminating at the mouth of the River. Samples were collected on seven occasions between May and September 2007 and once in March 2008. Hardness values for the samples collected during the summer (June – September) ranged from 48.9 to 115.9 mg/l, with an average of 73 mg/l. Using the rationale that the Region presented in the Response to Comments, water quality criteria should be based upon a hardness value of 48.9 mg/l (i.e. to approximate critical conditions and ensure that criteria will be met under all effluent and receiving water conditions). Even if the Region's response is interpreted to mean that only values collected under low flow conditions that approximate the 7Q10 flow should be considered, the Region's selection of a hardness value of 100 mg/l is still not protective of RI Water Quality Standards. The 7Q10 flow for the Ten Mile River at the USGS Gauge in East Providence, RI is 15.6 cfs. Flows observed during the August 21, 2007 and September 4, 2007 sampling surveys are equivalent to 7Q10 flow. During these two sampling surveys, hardness values ranged from 70.2 – 94.7 mg/l. Again applying the Region's own rationale, the water quality criteria should have been based on a hardness value of 70.2 mg/l.³ Based on this data, the

³ Petitioner acknowledges that some of this data was generated after the close of the initial comment period on the original draft permit. All of the information was collected and available to the Region prior to the issuance of the permit, however, and the Region, having approved the sampling plan for the project concurrent with its review of the permit application at issue here, was fully aware of the on-going nature of the sampling, and of the timeline

application of the Region's own methodology of applying the lowest available hardness value in establishing permit limits, in order to approximate critical conditions and ensure that water quality criteria will be met under all conditions, would result in an applicable hardness value of either 48.9 or 70.2 mg/l. In either case, the applicable value should have been considerably lower than the 100 mg/l actually applied.

Table 1 illustrates the impact of criteria associated with these hardness values and the 100 mg/l value selected by the Region, and Table 2 illustrates the effect of the application of those values on the permit limits.

Table 1. Impact of Alternative Hardness Values on RI Chronic Aquatic Life Criteria.

	RI Chronic Aquatic Life Dissolved Metals Criteria (ug/l)		
	Hardness = 100 mg/l	Hardness = 48.9 mg/l	Hardness = 70.2 mg/l
Copper	9.0	4.9	6.6
Lead	2.5	1.1	1.7
Zinc	118	64.4	87.5
Cadmium	0.25	0.15	0.19

Table 2. Effect of the Application of Alternative Hardness Values on Permit Limits

	Attleboro Chronic (Monthly Average) Permit Limits Total Metals (ug/l)		
	Hardness = 100 mg/l	Hardness = 48.9 mg/l	Hardness = 70.2 mg/l
Copper	13.1	7.1	9.6
Lead	4.4	1.7	2.8
Zinc	167.7	91.4	124.2
Cadmium	0.4	0.2	0.3

for the generation of the data. The Region had a duty to consider all available information in setting the permit limits to ensure conformance with all applicable water quality standards, and by not availing itself of all relevant and available data prior to issuance of the permit, the Region relied on erroneous findings of fact in issuing this permit.

Both of the above tables demonstrate the marked effect that the adjustment of the hardness values applied by the Region in establishing permit limits would have on the Facility's ability to meet RI water quality standards, and therefore on the Region's ability to ensure, as it must by law, that the discharge within the permit limits will comply with all applicable water quality standards.

The Region's response failed to explain or clarify the reasoning behind the decision to assume 100 mg/l hardness value, based on values observed above the North Attleborough WWTF rather than values in the relevant downstream receiving waters, and also failed to explain how the permit limits for metals would "ensure compliance with applicable water quality requirements of all affected states." 40 C.F.R. § 122.4(d). Instead, the Region provided an acceptable reasoning (that using the lower of the observed hardness values would approximate critical conditions and help ensure compliance with applicable standards), but then failed to properly apply that reasoning, in that the Region then failed to consider the appropriate observed hardness values in determining which was the proper "lower hardness value" to apply in this instance.

In determining nitrogen and phosphorous limits for this permit, the Region considered various reports and studies, and adequately considered the specific conditions of the receiving waters in setting the permit limits for nitrogen and phosphorous. *See* Response to Comments. As discussed above, however, in setting the metals limits, the Region elected to account for hardness values upstream of the North Attleborough WWTF, rather than to look to the actual observed hardness values in the receiving waters in Rhode Island. It is inconsistent for the Region to have so strongly and appropriately considered downstream conditions and water quality standards for nitrogen and phosphorous, but then to fail to do the same for metals. The Region's failure to

consider all relevant and available information or to apply the proper hardness values results in the Region's inability to adequately demonstrate that the permit limits, as set in the final permit, will ensure compliance and conformity with all applicable water quality requirements, as required by 40 C.F.R. §§ 122.4 and 122.44.


The Region has indicated that, in selecting the hardness values and setting the metals limits in this permit, it considered the 2003 and 2004 August quarterly toxicity tests for in-stream hardness above the North Attleboro WWTF discharge. *See* Response to Comments at 39, Response B.3 and 43, Response C.1. There is no documentation that the Region considered any additional data, or took into account the typically observed hardness values for the receiving waters downstream of the facility, or specifically in Rhode Island, as the petitioner discussed in its comments. *See* Response to Comments, p. 42, Comment C.1, attached as Exhibit B, and Written Comments of RIDEM, attached as Exhibit C.

CONCLUSION

For the foregoing reasons, Petitioner requests that the Environmental Appeals Board grant Petitioner's request for review of NPDES Permit MA0100595, or, in the alternative, Petitioner requests that the Permit be remanded for further review by the Regional Administrator, so that the permit limits for the discharge of metals into the Ten Mile River can be reviewed and amended to ensure compliance with the Rhode Island water quality standards, as is required by the Clean Water Act and the NPDES Regulations.

Respectfully submitted,
RI Department of Environmental Management,
By its attorney,

Date: July 9, 2008



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LIST OF EXHIBITS

Exhibit A: Fact Sheet and revised Fact Sheet for Draft NPDES Permit MA0100595

Exhibit B: Response to Comments on Draft NPDES Permit MA0100595

Exhibit C: Written correspondence of RI Department of Environmental Management containing comments on Draft NPDES Permit MA0100595, Dated September 12, 2006