



Taunton River Watershed Alliance, Inc.

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

**In re: Dominion Energy Brayton
Point, LLC (formerly US Gen
New England, Inc.)
Brayton Point Station**

NPDES Appeal No. 07-01

NPDES Permit No. MA 0003654

**Taunton River Watershed Alliance's
Non-Party Brief Supporting
Region 1's November 30, 2006 Remand Determination
Re: NPDES Permit No. MA 0003654**

The Taunton River Watershed Alliance (TRWA) hereby requests that Environmental Appeals Board (EAB) reject further Review of the Permit issued to the Brayton Point Station (BPS) and that EAB uphold the Remand Determination issued by Region 1 of the United States Environmental Protection Agency in relation to Final NPDES Permit No. MA 0003654.

The TRWA, founded in 1988, is a non-profit grass-roots organization representing over 1,000 members within the 43 communities that comprise the Taunton River watershed area. TRWA is an alliance of concerned residents, businesses, and organizations dedicated to protecting and restoring the Taunton River Watershed, its tributaries, wetlands, floodplains, river corridors and wildlife. The Taunton River watershed is the second largest watershed in Massachusetts draining 562 square miles from its headwaters in Bridgewater to the Mount Hope Bay estuary. The Mount Hope Bay estuary provides essential spawning and nursery habitat to many species of commercial, recreational, and ecological importance. It is of critical importance to the Taunton River and its resources.

Since 2002, TRWA has seen this permit renewal process being continually dragged on by BPS with one legal maneuver after another while the estuary is slowly dying. It is far past the time that this issue should have been concluded. We demand that the NPDES permit (Permit No. MA0003654) issued by Region 1 be recognized and upheld. The discharge limits placed on BPS are not only proven to be scientifically supported but

technically supported. We applaud the work of Region 1 in recognizing the importance of estuarine habitats in the issuance of these long overdue limits.

TRWA believes that Region 1 has more than adequately justified the scientific, technological, economic and legal bases for the limits. The arguments that BPS uses to justify review of the permit do not warrant that review. BPS states that there is no justification for the 5-day criterion. However, it is clear that there is a critical avoidance temperature as based on the Casterlin and Reynolds (1982) 3-day study where juvenile winter flounder will show adverse impacts if that temperature (24°C) is exceeded. It is ridiculous to believe as BPS would try to have us believe that somehow these fish would acclimate to the hotter temperatures. Haven't we learned our lesson by now.

As far as the production foregone arguments, clearly the errors in calculations as Region 1 has admitted are immaterial to the Permit limits. The intake limits are based upon the best technology available which in the careful judgment of Region 1 is closed cycle cooling. Closed cycle cooling or recirculation the water is both a cost-effective and a feasible technology that if implemented will decrease thermal discharges by approximately 95% while substantially decreasing the amount of water withdrawn from the river. TRWA urges compliance with NPDES permit and the Clean Water Act. Final implementation of the permit conditions will greatly enhance the possibility for habitat and fish recovery in the Mount Hope Bay estuary and the Taunton River.

The Taunton River been nominated for inclusion into the National Park Service, National Wild and Scenic Rivers Program (www.TauntonRiver.org). The Taunton River is considered by state and local wildlife experts to be one of the most ecologically diverse water bodies in the Commonwealth with fisheries identified as one of its outstanding resource values. Moreover, the government is statutorily obligated, given the severe impacts to the Taunton River/Mount Hope Bay ecosystem, to take immediate enforcement actions requiring compliance with the existing permit to reduce the ongoing adverse effects from the withdrawal of cooling water out and the discharge of heated water and pollutants into Mount Hope Bay and Taunton River.

TRWA supports Region 1 in its issuance of the Final NPDES Permit No. MA 0003654 and Remand Determination. We believe the arguments used by BPS do not justify further Review of the Permit and thus prolong the suffering of fisheries in this great body of water. We urge EAB to reject the arguments BPS uses in its Petition for Review. Thank you for again allowing us the privilege of providing comment on this important matter.

Respectfully yours,
Taunton River Watershed Alliance


Joseph L. Callahan
TRWA

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Carolyn LaMarre, Executive Director, TRWA

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2007 I served a true copy of TRWA's Non-Party Sur Reply Brief in Support of Region 1 issuance of the Final NPDES Permit No. MA 0003654 for Brayton Point Station and Remand Determination on the following parties by regular mail:

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