

PETITION FOR REVIEW

**Board of Water and Sewer Commissioners –
Town of Bridgewater Academy Building
Bridgewater, MA 02134**

**Bridgewater Waste Water Treatment Facility
100 Morris Avenue
Bridgewater, MA 02134**

Permit No. MA0100641

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Reply To Bridgewater

November 4, 2016

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, N.W.
(Mail Code 1103M)
Washington, D.C. 20460-0001

Re: Petition for Review - Appeal to NPDES Permit

Permit No: MA0100641

**Permit Applicant: Board of Water and Sewer Commissioners – Town of Bridgewater
Academy Building, Bridgewater, MA 02134**

**Permitted Facility: Bridgewater Waste Water Treatment Facility, 100 Morris Avenue,
Bridgewater, MA 02134**

Dear Clerk of the Environmental Appeals Board:

This office represents the Town of Bridgewater, Massachusetts with respect to the National Pollutant Discharge Elimination System (NPDES) Permit received by the Board of Water and Sewer Commissioners for the Town of Bridgewater from the U.S. Environmental Protection Agency (EPA) on or about October 11, 2016 (Permit No. MA0100641). Please accept this correspondence on behalf of the Town of Bridgewater as an appeal pursuant to 40 C.F.R. § 124.19 to the recent NPDES Permit for the receiving water named Town River (Taunton River Basin MA62-13). This Brief serves as the Petition for Review with the U.S. EPA's Environmental Appeals Board (EAB) under 40 C.F.R. § 124.19.

Enclosed for your review, please see the Exhibits in the Table of Attachments. The Petition for Review is enclosed below. The original and two copies have been provided. 40 C.F.R. § 124.19 (i)(2)(ii).

Respectfully Submitted,



Mark C. Gildea, Esq.

- (5) More reasonable nitrogen and phosphorus limits;
- (6) More reasonable pH limits to eliminate the possibility of nuisance permit violations; and
- (7) Relief for river monitoring requirements.

As such, the Town of Bridgewater requests that the EAB consider the following with regards to the Town's Appeal of the Final NPDES Permit.

The Town asserts that certain conditions included in the final NPDES Permit No. MA 0100641, and certain conditions omitted therein, are based on a "finding of fact or conclusion of law which is clearly erroneous" or on "an exercise of discretion or an important policy consideration" which the EAB should, in its discretion, review pursuant to 40 C.F.R. § 124.19(a).

II. BACKGROUND

The Town of Bridgewater is located in Plymouth County, Massachusetts approximately twenty-seven (27) miles south of Boston. The Town is located in a temperate, inland area of Massachusetts.

The subject River Basin, the Taunton River Basin, is 562 square miles in area and empties into Mount Hope Bay near the City of Fall River, Massachusetts. The Basin overall is characterized by flat to gently rolling topography with elevation that range from sea level to 450 feet. The Basin includes approximately 23 square miles of lakes and ponds and roughly 50 square miles of wetlands. The Town of Bridgewater lies entirely within the boundaries of the Taunton River Basin and is fairly central to the Basin.

The Town's Board of Water and Sewer Commissioners has faithfully evaluated its wastewater management needs and operations for over thirty (30) years. The Town of Bridgewater is in the process of developing a twenty (20) year plan for town-wide wastewater management for continue environmental protection and to ensure that the Town is fiscally responsible, and capable, to comply with future permit requirements. The Town of Bridgewater retained the services of the engineering firm Weston & Sampson of Peabody, Massachusetts, to assist the Town in developing a Comprehensive Wastewater Management Plan (with Water Resource) (CWMP). A copy of the September 2016 Draft Report is attached in Exhibit D.

The existing wastewater management systems in Bridgewater include both a centralized sewer system collection, transmission, and treatment system that services roughly a third of the developed properties in the Town and individual on-site septic systems for the remaining two-thirds of the developed properties. According to a 2014 report, the Town of Bridgewater has 2,264 households serviced by the Town sewer system, only about 28% of all households. See Exhibit D.

III. REQUEST FOR EXTENTION FOR AFFORDIBILITY AND FEASABILITY ANALYSIS

The Town of Bridgewater requests that the EAB consider and grant its request to extend the effective date for Permit No. MA 01000641 to confer additional time for the Town to conduct an affordability and feasibility analysis for the new Permit and conditions.

In its September 5, 2014 letter/comment on the Draft Permit, the Town stated the following with regards to its ability to commit to the conditions in the Draft Permit:

The Town believes that the above concerns should be resolved and any necessary study and related modeling be completed before we can accept the nutrient limits included in the draft permit. (italics in original).

Exhibit A, Page 3 of 5.

Also, we know that the resulting WWTP upgrade will have a very significant cost. Therefore, the Town requests time to complete our CWMP and evaluate the total cost of the project to ensure that it will not place an unreasonable financial burden on households in our community.

...

Therefore, based on the information described above, we respectfully request that the draft permit be withdrawn or put on hold until an appropriate time when the items described above are completed. (italics in original).

Exhibit A, Page 4 of 5.

The last comprehensive study completed for the Town of Bridgewater was for a Sewerage Needs Analysis in December 2000. Thereafter in 2001, the Town submitted an Environmental Impact Report for Comprehensive Wastewater Management Plan under the Massachusetts Environmental Policy Act (MEPA). The analysis and report produced by the Town proved successful and essential for the continued operation of the Facility since 2000. Many of the recommendations made in the study were implemented at the Facility to improve the level of wastewater treatment and disposal. The data collected was used to evaluate wastewater management needs considering lot sizes, soil types, groundwater limitations, wetland/floodplain proximity, history of failed on-site systems and protection of groundwater supplies. Given the success and experience of the Town with the December 2000 undertaking of an analysis report, the Town of Bridgewater is certain that it is their financial and municipal duty to conduct an affordability and feasibility analysis before executing a Final Permit with the Agency.

As stated by the Town in its comment dated September 5, 2014, the proposed NPDES Permit will require the Town of Bridgewater to undertake a costly construction project to upgrade the existing Wastewater Treatment Plant. The Town estimates that the project will cost approximately \$31,000,000.00. This financial project will burden the tax payers tremendously, as only approximately 1/3 of the Town's residents receive sewer services to their properties. This cost would as such be borne by the 1/3 residents receiving sewer treatment. The Town submits

that it is in the best interest of these residents, and the Town, to elect to perform an affordability and feasibility analysis before committing to the multi-million dollar project. The Town of Bridgewater has limited means to proceed with the new NPDES Permit and an extension of time is necessary for the Town to determine if the proposed Permit is within the Town's reach.

If granted, the Town will discuss with Stantec Consulting Services of Burlington, Massachusetts to commission an affordability and feasibility analysis for the upgrade construction project to the existing Wastewater Treatment Plant. The lack of additional time to complete these analyses will place an unreasonable financial burden on households in the Town of Bridgewater. The Town will ensure that the EPA's Interim Economic Guidance for Water Quality Standards will be used to complete this determination.

IV. REQUEST FOR ADDITIONAL TIME AND EXTENDED COMPLIANCE SCHEDULE

The comment by the Town of Bridgewater dated September 5, 2014 clearly demonstrates that the Town petitioned the Agency to consider granting additional time for the effective date of the Final Permit and for compliance of the conditions stated therein. The Town stated:

It is the position of the Town of Bridgewater that the EPA should allow us time to complete the CWMP process that is currently underway for our Town before new permit limits are established.

Exhibit A, Page 4 of 5.

It is clear that the Agency rejected the Town's plea for additional time as it issued the Final Permit and conditioned the Permit with a stringent time-line for compliance.

The Town of Bridgewater requests that the EAB grant its request appealing the compliance schedule as stated in Section G of Permit No. MA0100641.

Section G states:

COMPLIANCE SCHEDULE

In order to comply with the new permit limits for total nitrogen and total phosphorus, the permittee shall take the following actions:

1. Within one year of the effective date of the permit, the Permittee shall submit to EPA and MassDEP a status report relative to the planning and design of the facilities necessary to achieve the total nitrogen and total phosphorus permit limits.
2. Within two years of the effective date of the permits, the Permittee shall complete design of the facility improvements required to achieve the total nitrogen and total phosphorus permit limits.

3. Within three years of the effective date of the permit, the Permittee shall initiate construction of the facility improvements required to achieve the total nitrogen and total phosphorus permit limits.
4. Within four years of the effective date of the permit, the Permittee shall submit to EPA and MassDEP a status report relative to construction of the facility improvements required to achieve the total nitrogen and total phosphorus permit limits.
5. Within fifty-four (54) months of the effective date of the permit, the Permittee shall complete construction of the facility improvements required to achieve the total nitrogen and total phosphorus limits.
6. The permit limits of 60 lb/day total nitrogen and 200 ug/l total phosphorus shall go into effect sixty (60) months from the effective date of the permit. Until such date the existing permit limit of 1.0 mg/l total phosphorus shall remain in effect.
7. The permittee shall notify EPA and MassDEP of its compliance or noncompliance with the requirements of this part in writing no later than 14 days after each interim or final date of compliance.

Exhibit B, Section G (1)-(7), Page 18 of 19.

The Compliance Schedule in Section G sets forth a five (5)-year schedule for construction upgrade to the existing Wastewater Treatment Plant and for implementation of the nitrogen and total phosphorus limits stated in Section G(6). The Town of Bridgewater request relief from the stringent and unrealistic timeline declared in the Compliance Schedule, and relief to the nitrogen and phosphorus limits as described below in Section VII of this Brief.

The Town of Bridgewater requests that the Compliance Schedule in the Final Permit No. MA0100641 be amended to provide the Town with additional time to achieve all target goals set forth in Section G (1)-(7). The five (5)-year schedule is not feasible for the Town or the Wastewater Treatment Plant. In consideration of the massive construction upgrade that will be required for the project, and in consideration of the expense and difficulty in funding the project, the Town requests that EAB grant a ten (10)-year Compliance Schedule. The additional time is necessary for the Town to achieve compliance with the conditions in the Permit.

The Town recommends that the Compliance Schedule be amended and be conditioned upon the completion of the affordability and feasibility analyses. The Town requests that Section G be amended as follows:

1. Within two years of the effective date of the permit, the Permittee shall submit to EPA and MassDEP a status report relative to the planning and design of the facilities necessary to achieve the total nitrogen and total phosphorus permit limits.
2. Within four (4) years of the effective date of the permits, the Permittee shall complete design of the facility improvements required to achieve the total nitrogen and total phosphorus permit limits.

3. Within six (6) years of the effective date of the permit, the Permittee shall initiate construction of the facility improvements required to achieve the total nitrogen and total phosphorus permit limits.
4. Within eight (8) years of the effective date of the permit, the Permittee shall submit to EPA and MassDEP a status report relative to construction of the facility improvements required to achieve the total nitrogen and total phosphorus permit limits.
5. Within nine (9) years of the effective date of the permit, the Permittee shall complete construction of the facility improvements required to achieve the total nitrogen and total phosphorus limits.
6. The permit limits of 60 lb/day total nitrogen and 200 ug/l total phosphorus shall go into effect ten years from the effective date of the permit. Until such date the existing permit limit of 1.0 mg/l total phosphorus shall remain in effect.
7. The permittee shall notify EPA and MassDEP of its compliance or noncompliance with the requirements of this part in writing no later than 14 days after each interim or final date of compliance.

*Subject to further relief sought in Section VII
of this Brief.

The Town of Bridgewater requests that the EAB grant its request appealing the compliance schedule as stated in Section G of Final Permit No. MA0100641 to provide for a ten (10)-year track for compliance.

***V. REQUEST FOR ADDITIONAL TIME FOR COMPLIANCE UNDER SECTION D –
OPERATION AND MAINTENANCE***

In conjunction with its request to extend the time period for the Compliance Schedule in Section G of the NPDES Permit No. MA 0100641, the Town requests additional time for compliance with Section D “Operation and Maintenance of the Sewer System.” The Town inherently requested additional time for the construction upgrade and compliance schedule for the operation and maintenance of the upgraded Facility. The Town stated in its September 5, 2014 letter:

It is the position of the Town of Bridgewater that the EPA should allow us time to complete the CWMP process that is currently underway for our Town before new permit limits are established.

Exhibit A, Page 4 of 5.

The Final NPDES Permit does not adequately address the Town’s monetary and staffing concerns.

Section D of the Final Permit provides a timeline which the Town of Bridgewater cannot reasonably anticipate to meet under the circumstances. In addition to its request to extend the effective date to allocate time for an affordability and feasibility analysis and its request to

extend the Compliance Schedule, the Town requests that Section D of the Final Permit be amended to allocate necessary additional time.

Section D of the Final NPDES Permit No. MA 0100641 states in part:

4. Collection System Mapping

Within 30 months of the effective date of this permit, the permittee shall prepare a map of the sewer collection system it owns (see page 1 of this permit for the effective date).

Exhibit B, Section D (4), Page 11 of 19.

5. Collection System Operation and Maintenance Plan

The permittee shall develop and implement a Collection System Operation and Maintenance Plan.

- a. Within six (6) months of the effective date of the permit, the permittee shall submit to EPA and MassDEP

.....

Exhibit B, Section D (5)(a), Page 11 of 19.

- b. The full Collection System O & M Plan shall be completed, implemented and submitted to EPA and MassDEP within twenty four (24) months from the effective date of this permit.

.....

Exhibit B, Section D (5)(b), Page 12 of 19.

The timeline stated in Section D of the Final NPDES Permit No. MA 0100641 creates an unrealistic and unattainable standard for the Town of Bridgewater under its current operation. The massive construction upgrade will require the Town to seek additional time for completing the tasks set forth in the NPDES permit. As such, the Town requests that the EPA review the timeline in Section D and amend the section as follows:

4. Collection System Mapping

Within 60 months of the effective date of this permit, the permittee shall prepare a map of the sewer collection system it owns (see page 1 of this permit for the effective date).

Exhibit B, Section D (4), Page 11 of 19.

5. Collection System Operation and Maintenance Plan

The permittee shall develop and implement a Collection System Operation and Maintenance Plan.

- c. Within twelve (12) months of the effective date of the permit, the permittee shall submit to EPA and MassDEP

.....

Exhibit B, Section D (5)(a), Page 11 of 19.

- d. The full Collection System O & M Plan shall be completed, implemented and submitted to EPA and MassDEP within forty-eight (48) months from the effective date of this permit.

....

Exhibit B, Section D (5)(b), Page 12 of 19.

The timeline requested by the Town of Bridgewater creates a more practical and manageable standard to complete the tasks stated in Section D of the Final NPDES Permit.

Additionally, the Town of Bridgewater requests that the EAB grant a modification to the proposed NPDES Permit No. MA01000641 based on the conditions for Maintenance Staff and Collection System stated in the Existing Permit for the Town of Bridgewater Wastewater Treatment Facility. The Existing Permit includes requirements for proper operation and maintenance of the sewer system which have been successful for the Town of Bridgewater. The conditions in the new NPDES Permit No. MA01000641 under Section D would impose a staffing hardship to the Town. The existing staff at the Facility fills multiple rolls. A crew may be doing pump station inspections in the morning and cleaning out a tank at the Facility in the afternoon. The Town requires continued flexibility with regards to its operation and maintenance of the sewer system, under Section D of the proposed Final Permit, as the size of the Facility does not warrant a separate staff for collection system.

The Town of Bridgewater requests that the EAB grant its request to amend the proposed Final Permit to remove the condition requiring a separate staff dedicated solely to operation of the collection system and amend the Permit to include the language of the existing permit for the Facility. See Exhibit C.

VI. REQUEST TO INCREASE AND EXPAND SEWER SYSTEM

The Town of Bridgewater's request to increase and expand its existing Wastewater Treatment Plant was not included in the Final NPDES Permit No. MA0100641. The Final NPDES Permit No. MA0100641 states:

Flow Average Monthly 1.44 mgd

Exhibit B, Part 1.A.1. Table Page 2 of 19.

The agency rejected the Town's request to complete a Comprehensive Wastewater Management Plan (with Water Resource) before issuing the Final Permit. Upon receipt of the Draft Permit, see Exhibit E, the Town commented in its September 5, 2014 letter that:

It is the position of the Town of Bridgewater that the EPA should allow us time to complete the CWMP process that is currently underway for our Town before new permit limits are established. Our CWMP may indicate that the Town needs an increase in plant flow to meet future growth which could impact the scientific determination of appropriate total nitrogen and phosphorus permit limits for our WWTP.

Exhibit A, Page 4 of 5.

The Agency's issuance of the Final Permit and limit of the gallons per day stated in the Final Permit inherently rejects the Town's request to determine the limits based on the completion of the CWMP. The Town's petition to amend the effluent limitation/monthly average at the Wastewater Treatment Facility is ripe for appeal.

Since its comment in September 2014, the Town of Bridgewater has continued and nearly reached the completion of the Comprehensive Wastewater Management Plan (with Water Resources) Report and Analysis. A copy of the most recent draft, September 2016, is enclosed with this petition in Exhibit D. The Town proposed expanding the existing daily effluent limitation by approximately 10% in order to provide additional wastewater treatment services for more residents in the Town of Bridgewater. As previously stated, the current Wastewater Treatment Plant only serves 1/3 of the Town's residents. The Town believes that expanding its services to more residents will ease the financial burden of the massive construction upgrade for the existing Wastewater Treatment Plant and extend the wastewater treatment services in the Town. The current daily effluent limitation at the facility is 1.44 million gallons per day (1.44 mgb) per the Final Permit. The Town requests a marginal increase in the daily limit, requesting that the current daily treatment be 1.58 million gallons per day (1.58 mgb). The Town was previously unable to request a specific increase amount without the completion of the CWMP.

Two-thirds of Town of Bridgewater properties continue to rely on individual on-site (septic) systems for wastewater treatment and disposal. The Draft CWMP determine that additional selected areas, including existing buildings and land areas in designated needs area, will be eligible for wastewater treatment services if the EPA grants the Town's request to increase the mgb at the existing Facility. These residents will benefit from the proposed construction upgrade to the facility and the centralized system for wastewater management.

The Final NPDES Permit No. MA0100641 states in Part I, A.1 "FLOW" that the "Average Monthly" effluent limitations at the facility is 1.44 mgd. Part I, A.1 TABLE, Page 2 of 19. The existing Bridgewater Wastewater Treatment Facility is a small plant but the upgrade and construction to the facility provides an opportunity for the Town to expand the facility with marginal alteration in the daily effluent limitation, but with a crucial impact on residents in the Town to be able to receive wastewater treatment. The Town of Bridgewater requests that the EAB grant its request appealing the FLOW Effluent Limitation set at 1.44 mgd, and grant its request to expand the facility operation to 1.58 mgd.

VII. REQUEST FOR DEVIATION FOR NITROGEN AND PHOSPHORUS LIMITS

The Town of Bridgewater expressly commented in its September 5, 2014 letter (attached in Exhibit A) that the Town would not be able to meet the nitrogen and phosphorus limits proposed by the EPA. Despite clear objection by the Town, and supporting scientific and financial grounds, the Final NPDES Permit No. MA 0100641 states limits for nitrogen and phosphorus which are fiscally unattainable at the small Wastewater Treatment Facility in the Town of Bridgewater. The Final Permit states:

Total Phosphorus (April 1 – October 31)	200 ug/l average monthly
Total Phosphorus (November 1 – March 31)	Report mg/l
Total Nitrogen (May 1 – October 31)	60 lbs/day
Total Nitrogen (November 1 – March 31)	Report lbs/day

Exhibit B, Part 1, A.1. Table, Pages 2-3 of 19.

Footnote 9 states:

The permittee shall comply with the 200 ug/l total phosphorus limit, the 60 lb total nitrogen limit and the optimization requirement of footnote 12 in accordance with the schedule contained in Section G below.

....

The permittee shall comply with the 60 lbs/day total nitrogen limit in accordance with the schedule described in Section H below. Upon the effective date of the permit, and until the date specified in Section G for completion of the treatment plant upgrade, monitoring for total nitrogen shall be conducted once per week.

Exhibit B, Footnote 9, Page 7 of 19.

The contest by the Town of the nitrogen and phosphorus limits in the Draft Permit is well documented in the letter. The comment by the Town states:

The Draft NPDES Permit includes five new items of concern to us which we question and that require additional explanation and justification from EPA as follows:

....

2. The Total Phosphorus limit of 200 micro-grams per liter (µg/l) average monthly and report maximum day as described in page 2 of 18 of the draft permit and page 8 of the Fact Sheet.
3. The Total Nitrogen limit of 60 pounds per day (lbs/day) average monthly and report maximum day as described on page 3 of 18 of the draft permit, and 5 milligrams per lit (mg/l) average monthly as described on page 5 of 18 of the draft permit and page 12 of the Fact Sheet. We note that the 5 mg/l limit is not listed in Table A.1 of the draft permit, but indicates report only.

Exhibit A, Page 1 of 5.

Item 2: The new total phosphorus limit of 200 ug/l had been greatly reduced from the previous limit of 1 mg/l in our existing permit. In A.1 table of the permit, seasonal limits for nitrogen are listed, however the total phosphorus does not appear to be limited to the summer months. *We are requesting that the new phosphorous limit apply to the summer months (May 1 – October 31) only.* (italics in original).

Item 3: The new total nitrogen limit is listed at 60 lbs/day in Table A.1 of the permit, however other locations indicate an effluent limit of 5 mg/L monthly average. This new total nitrogen limit will be a challenging limit to meet at our WWTP especially when combined with to the stringent limit for phosphorous. *We are requesting confirmation that the new limit is the 60 lbs/day mass balance limit only as listed in Table A.1 or is the new limit also a 5 mg/L concentration based limit? Please refer to additional questions related to this total nitrogen limit indicated below.* (italics in original).

Exhibit A, Page 2 of 5.

We should also assert that a TMDL study with current date for the Taunton River Estuary is warranted and should be completed before the new limits are imposed.

We share the concerns expressed by another permittee with a WWTP in the Taunton River Estuary which are:

- That it is not scientifically possible to reliably predict the degree of nitrogen control required to ensure compliance with appropriate standards using old data and the methodology employed by EPA.
-
- The assertion that the total nitrogen (TN) endpoint to derive the TN effluent limit is not scientifically defensible.
-

The Town believes that the above concerns should be resolved and any necessary study and related modeling be completed before we can accept the nutrient limits included in the draft permit. (italics in original).

Exhibit A, Page 3 of 5.

At the present time, the total nitrogen and phosphorus limit included in the draft permit cannot be achieved at our facility. This fact needs to be incorporated into the CWMP process so appropriate upgrade alternatives can be evaluated, cost estimates prepared and a recommended plan approved by the Town and the MEPA process.

....
Without recognition of the specifics of the Bridgewater WWTP, the proposed total nitrogen limits in our draft permit are the same as the limit proposed for several other (larger) plants in the Taunton Basin, while small plants are not being issued nitrogen limits at all. Considering the significant variations in plant capabilities, the Town observes that exploring a basin approach to addressing nitrogen may be more applicable, possibly including options such as nutrient

trading (where some facilities that are more readily adapted to denitrification can more efficiently remove a greater part of the nitrogen load. We request that EPA explore this broader approach to nitrogen control in the basin before issuing the formal nitrogen limits proposed.

Exhibit A, Page 4 of 5.

It is the position of the Town of Bridgewater that the total nitrogen and phosphorus permit limits for the major WWTPs in Taunton, Brockton and Somerset which represent 80% of the total direct wastewater flow to the Taunton River Estuary be implemented, water quality assessed, and maximum loading limits recalculated before the total nitrogen and phosphorus permit limits are established for the Bridgewater WWTP which represents less than 4% of the total direct wastewater flow to the Taunton River Estuary along with the other small WWTP contributors.

Exhibit A, Page 4 of 5.

Conclusion

It is the position of the Town of Bridgewater that for our WWTP, the extremely stringent effluent phosphorous and nitrogen limits proposed in the draft permit have not been adequately explained or supported by proper site-specific scientific methods to show why they are needed to protect water quality in the Taunton River Basin.

Exhibit A, Page 4 of 5.

The nitrogen and phosphorus requirements in the Final NPDES Permit No. MA0100641 create an undue financial hardship on the Town of Bridgewater. Further, scientific analysis of the nitrogen and phosphorous levels do not support the stringent limits stated in the Final Permit.

The Clean Water Act (CWA) addresses concerns for the levels of nitrogen and phosphorus that sewage treatment facilities may discharge into rivers by stating the Act's goal to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a). The Town of Bridgewater complies with the Existing Permit limits for nitrogen and phosphorus. See Exhibit C. The agency failed to provide scientific authority, relating to the Town River (Taunton River Bain MA62-13) for its decision to set the stringent nitrogen and phosphorus limits. Further, the Town contests the Final Permit and seeks that any changes to the nitrogen and phosphorus limits at the Facility should be withheld until the construction upgrade at the Facility is completed. The Final Permit states arbitrary limits which are not centered on the Town River itself, and on the small operation of the existing Wastewater Treatment Facility in the Town of Bridgewater. The arbitrary and capricious limits violate the Administrative Procedure Act (APA), 5 U.S.C. § 706. The limits set in the Final Permit are outside the "zone of reasonableness."

The Final NPDES Permit drastically amends the Existing Permit at the Facility for nitrogen and phosphorus limits. The permits are compared as follows:

Total Phosphorus (April 1 – October 31)

FINAL PERMIT: 200 ug/l average monthly
EXISTING PERMIT: 12.0 lbs/day / 1.0 mg/l (1000 ug)

Total Nitrogen (May 1 – October 31)

FINAL PERMIT: 60 lbs/day
EXISTING PERMIT: 36.0 lb/day* (Ammonia Nitrogen level)

See Exhibits B & C.

The existing operation at the Wastewater Treatment Facility in the Town of Bridgewater results in the Facility consistently meeting effluent limits for ammonia nitrogen and phosphorus. The Agency arbitrarily and capriciously increased the conditions for phosphorus limits and set nitrogen limits in contrast to limits the Agency imposed for other facilities, even for plants servicing the same Taunton Basin. The Final NPDES Permit sets total nitrogen limits which are the same as the limits proposal for several other, and larger, plants in the Taunton Basin. The Agency has also chosen not to impose nitrogen limits in permits issued to smaller plants, like the Facility in the Town of Bridgewater, but arbitrarily and capriciously imposed limits on the Town in the Final Permit. As such, the Town of Bridgewater requests that the EAB issues its request to amend the phosphorus limits and remove the nitrogen limits in the Final NPDES Permit No. MA0100641.

The Town requested in its September 5, 2014 comment that the Town be afforded more time to conduct upstream sampling in the Town River to determine a more accurate mass balance calculation for nitrogen and phosphorus limits. See Exhibit A, Page 4 of 5. The EPA itself encouraged the Town to provide more site-specific sampling, as stated on Page 10 of the Fact Sheet for the Bridgewater WWTP. See Exhibit A, Page 4 of 5; Exhibit F.

The Town of Bridgewater requests that the EAB consider and grant relief to the stringent nitrogen and phosphorus limits by making these parameters “Monitor Only” for this permit cycle. The Town does not feel that the EPA adequately addressed the comments of the Town which supports the request that the EAB provide relief to the stringent nitrogen and phosphorus limits as currently listed in Part I.A.1, Pages 2 and 3 of 19 in NPDES Permit No. MA0100641.

VIII. REQUEST FOR DEVIATION FOR pH LIMITS

The Final NPDES Permit No. MA0100641 states in Part I, A.1 “pH RANGE” a pH Range for the Facility at “6.5-8.3 S.U.” and Part I.A.1(b) of the Permit states:

The pH of the effluent shall not be less than 6.5 or great than 8.3 at any time.
Exhibit B, Part I.A.1(b), Page 9 of 19.

The Town of Bridgewater commented on the limit in its September 5, 2014 letter. The Town stated:

Our existing permit has a pH limit range of 6.0-8.3 which has been meet consistently. Ferric chloride is used at the WWTP to assist in the removal of phosphorus. One of the effects of using coagulants (including ferric chloride)

is that it will reduce the pH of the effluent. The new draft permit also establishes a lower effluent phosphorous limit, which could result in the use of additional ferric chloride. The use of additional ferric chloride will further suppress the pH. *Therefore, we request that the permit pH range be set at 6.0-8.3 as listed in our existing permit for the Bridgewater WWTP.* (italics in original).

Exhibit A, Page 2 of 5.

The Existing Permit for the Wastewater Treatment Plant sets a pH Range of 6.0 to 8.3. The Facility is able to consistently meet the pH Range without additional chemical treatment. The Final NPDES Permit No. MA0100641 sets a rate in excess of 40 C.F.R. 133.102(c), which sets the rate at 6.0-9.0. See Exhibit C, Page 6 of 11, Existing NPDES Permit No. MA0100641 2003 Issuance. The Town will be able to continue to meet the pH Range stated in 40 C.F.R. 133.102(c) under its current operation and without adding further chemical treatment.

At the Wastewater Treatment Plant in the Town of Bridgewater, Ferric chloride is used to assist in the removal of phosphorus. An affect of using coagulants (including ferric chloride) is that it will reduce the pH of the effluent. The new NPDES Permit No. MA0100641 establishes a lower effluent phosphorous limit, which could result in the use of additional ferric chloride. The use of additional ferric chloride will further suppress the pH.

The Town of Bridgewater appeals the pH Range in Part I, A.1 and Part I.A.1(b) and requests that the EAB grant its request to implement the pH Range in the Facility's Existing Permit, set at 6.0-8.3. See Exhibit C.

IX. REQUEST TO REMOVE CONDITION FOR RIVER MONTIORING REQUIREMENTS

The Town of Bridgewater has communicated with the EPA about its valid concerns with regards to the testing and monitoring conditions in the Final NPDES Permit No. MA0100641. The small operation of the existing Wastewater Treatment Facility, the limited staff, and narrow budget impede the Town of Bridgewater's ability to comply with the changes in the new Permit.

The Town of Bridgewater specifically requests that the EAB consider granting a modification and amendment to the following sampling conditions in the Final Permit.

Footnote 10 states:

A monthly grab sample recorded for dissolve oxygen (DO) and pH at Hayward Street in the early morning (before 8:00 a.m.) and in the late afternoon (after 3:00 pm.) Samples shall be taken from mid-stream on the same week and day of each month. Individual sample results, including the corresponding river flow from the USGS gage in Bridgewater, shall be reported on a separate sheet of paper and submitted with the November DMR report. If the river cannot be reasonably accessed at the mouth then the sample shall be taken at the nearest accessible point upstream of the mouth.

Footnote 11 states:

From May through October, the permittee will conduct monthly ambient sampling for total phosphorus and total nitrogen (ammonia + organic nitrogen + nitrite + nitrate) immediately upstream of the discharge and at the mouth of the Town River. The sample collected at the mouth of the Town River will be upstream of the confluence with the Matfield River. Samples shall be taken from mid-stream on the same week and day of each month. An EPA approved analytical method that achieves the lowest possible quantification level shall be used. Individual sample results, including the corresponding river flow from the USGS gage in Bridgewater, shall be reported on a separate sheet of paper and submitted with the November DMR report. If the river cannot be reasonably accessed at the mouth then the sample shall be taken at the nearest accessible point upstream of the mouth.

Exhibit B, "Footnotes", Page 7 of 19.

The additional testing will financially burden the Town and impose a staffing hardship. The Facility operates with limited staffing and employees are dismissed daily before 3:00 p.m., rendering the task to perform testing after 3:00 p.m. to be in contrast to the operation times of the Facility.

The Town of Bridgewater stated its concerns for staffing hardships in its letter dated September 5, 2014. The Town stated in its comment:

The new...measurement frequent...imposes a staffing hardship on the Town, especially for Saturday, Sundays and holidays. To achieve our current permit requirement, we have a trained laboratory staff person come to the WWTP for a limited period on weekends and holidays...

Exhibit A, Page 2 of 5.

The conditions in the permit create an operation hardship which will exist for the life of the treatment facility. In light of the daily testing performed by the Town of Bridgewater already at the Facility, the Town seeks removal of the conditions set forth in Footnotes 10 and 11.

X. CONCLUSION

The relief requested above will be of significant benefit to the Town of Bridgewater as they undertake a considerable task in adjusting to the new NPDES Permit. The Town of Bridgewater has limited means through its municipal budget to allocate to the conditions in the proposed Permit and the relief requested herein would make the tasks more feasible. The existing permit includes requirements for proper operation and maintenance of the sewer system which have been successful for the Town of Bridgewater.

The Town of Bridgewater is amenable to discussing its appeal with the EPA and MassDEP to reach a concession and discuss resolution of the requests listed in this Petition for Review.

Respectfully Submitted
The Town of Bridgewater, Massachusetts
Through its Counsel,



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STATEMENT OF COMPLIANCE

The undersigned, **Mark C. Gildea, Esq.**, counsel for the Town of Bridgewater, hereby certifies that the Petition for Review complies with the word and pagination limitations pursuant to 40 C.F.R. § 124.19.

Dated: November 4, 2016


Mark C. Gildea, Esq.

CERTIFICATE OF SERVICE

The undersigned, **Mark C. Gildea, Esq.**, counsel for the Town of Bridgewater, hereby certifies that the Petition for Review, Table of Contents, Table of Attachments, Attachments, were served by first class mail, postage prepaid, or in-hand, to the following:

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Boston, MA 02109-3912

David R. Ferris, Director
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Clerk of the Board
U.S. Environmental Protection Agency
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1200 Pennsylvania Avenue, N.W.
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Washington, D.C. 20460-0001

Dated: November 4, 2016


Mark C. Gildea, Esq.

PETITION FOR REVIEW

**Board of Water and Sewer Commissioners –
Town of Bridgewater Academy Building
Bridgewater, MA 02134**

**Bridgewater Waste Water Treatment Facility
100 Morris Avenue
Bridgewater, MA 02134**

Permit No. MA0100641

TABLE OF ATTACHMENTS

<i>Letter dated September 5, 2014 by the Water and Sewer Superintendent Jonas Kazlauskas for the Town of Bridgewater and submitted to Susan Murphy with the U.S. EPA – Region 1.</i>	EXHIBIT A
<i>Final NPDES Permit No. MA0100641.</i>	EXHIBIT B
<i>Existing NPDES Permit for the Permitted Facility.</i>	EXHIBIT C
<i>September 2016 Draft Comprehensive Management Plan (with Water Resources) by Weston & Sampson for the Town of Bridgewater</i>	EXHIBIT D
<i>Draft NPDES Permit No. MA0100641</i>	EXHIBIT E
<i>Fact Sheet</i>	EXHIBIT F