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CITY OF PITTSFIELD

DEPARTMENT OF PUBLIC WORKS & UTILITIES, CITY HALL, 70 ALLEN STREET, PITTSFIELD, MA 01201 413-499-9330

ENVIR. APPEALS BOARD

September 22, 2008

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board (MC 1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

RE: NPDES No. MA0101681 – October 2008 Final Permit

To Whom It May Concern:

The City of Pittsfield is petitioning the Environmental Appeals Board to contest the provisions of the above referenced NPDES Permit. The City had previously filed comments stating significant concerns regarding the draft version of this permit (see attached letter dated February 5, 2008) with both the Massachusetts Department of Environmental Protection (MA DEP) and the United States Environmental Protection Agency (US EPA). Unfortunately, this NPDES permit has now been issued as "Final" and without any significant modification to address the City's previously stated concerns. As previously submitted to the MA DEP and US EPA, the permit contains limits and requirements that are presently unachievable by the City. As such, the City can not accept this Final NPDES permit. It is our sincere desire that the regulatory authorities will work cooperatively with the City to develop a fair and balanced permit that is can be implemented and will not result in an enormous financial burden to the users of the wastewater system, while continuing to meet the goals of the Clean Water Act. In the interim the City will continue to operate in compliance with its current NPDES permit dated October 3, 2000, as we are unable to comply with the reissued 2008 NPDES permit.

Sincerely,

A handwritten signature in cursive script that reads "Bruce I. Collingwood".

Bruce I. Collingwood, P.E.
Commissioner

cc: James M. Ruberto, Mayor
John W. Olver, United States Representative
Richard Dohoney, City Attorney
Thomas Landry, WWTP Superintendant
Christopher Speranzo, State Representative
Benjamin Downing, State Senator
William Pignatelli, State Representative
Denis Guyer, State Representative
Alan Wells, S E A Consultants Inc.



CITY OF PITTSFIELD

DEPARTMENT OF PUBLIC WORKS & UTILITIES, CITY HALL, 70 ALLEN STREET, PITTSFIELD, MA 01201 413-499-9330

February 5, 2008

Ms. Meridith Decelle
Office of Ecosystem Protection
Environmental Protection Agency – Region 1
1 Congress Street, Suite 1100 (CMP)
Boston, MA 02114-2023

Mr. Glenn Haas, Director
Division of Watershed Management
Massachusetts Department of Environmental Protection
1 Winter Street
Boston, MA 02108

RE: Draft NPDES Permit No. MA0101681

To Whom It May Concern:

On December 28, 2007, the City of Pittsfield received the draft National Pollutant Discharge Elimination System (NPDES) Permit for the City's Wastewater Treatment Plant (WWTP). The City takes great pride in accepting its role in protecting the environment, and the City's WWTP consistently produces high quality wastewater effluent. Based on our review of the proposed NPDES Permit, the City strongly believes the new requirements contained in the permit are not fair and not balanced. The changes are one-sided and do not consider the affordability to the City's residents as compared to the limited perceived gains in environmental protection. The City requests the Environmental Protection Agency (EPA) work cooperatively with the City to develop a fair and balanced permit that will not result in enormous rate impacts to the users of the wastewater system, while continuing to meet the goals of the Clean Water Act.

Overall this draft permit represents a complete revision from the prior permit and an enormous financial burden to the City. The document was issued without communication with City officials as to the dramatic changes that would be presented in the draft permit. The City does not accept the proposed changes to the existing permit. They are neither fair nor environmentally beneficial. The following narrative represents general comments regarding the draft permit.

1. Additional Permittees: The document lists four connected Towns as co-permittees to the draft permit. The City is responsible for the administration, finance, operation and maintenance of facilities located within the City limits. The City

allows the four connected communities to use the treatment plant for an economic and environmental benefit and manages them as customers. The City has no responsibility or control over the individual community's infrastructure. The City can not take on the responsibility of the reporting requirements and management of their collection systems.

2. Effluent Limitations: The permit makes several significant changes to effluent permit limits. The indicator organism for pathogenic bacteria has been modified, the phosphorus limit was reduced by more than 90%, and a new limit for aluminum was added:

Phosphorus: This limit represents the single most significant change in the NPDES permit. The current limit is seasonal with an April average daily limit of 2.0 mg/l and a May through August limit of 1.0 mg/l. The proposed limit is 0.1 mg/l from April to October and 1.0 mg/l from November through March each year. The City is extremely concerned by the imposition of this limit for several reasons.

The City discharges high quality effluent for a number years contributing to the overall improvement in the health of the Housatonic River, being the first major discharger to treat to advanced wastewater limits. The City has removed approximately 70% of the phosphorus from its effluent for a number of years. The WWTP has also been the recipient of awards for their efforts and dedication to environmental protection.

The limit is proposed without benefit of a Total Maximum Daily Load (TMDL) study for phosphorus in the Housatonic. The Massachusetts Year 2006 Integrated List of Waters 303(d) does not identify nutrients as a pollutant of concern for the River. Those identified requiring a TMDL are priority organics, pathogens, and turbidity. Both of these seem to contradict the limited information presented in the Fact Sheet for the rationale to propose the limit.

The calculations and sources of background information do not seem appropriate to develop the limit for Pittsfield. Additionally, all other NPDES permitted facilities located along the Housatonic are not being required to remove phosphorus to the proposed permit limit. Permits issued as recently as the end of last year do not contain limits in the range of the proposed Pittsfield limit.

The WWTP is not capable of meeting the limit without significant additional infrastructure. The cost to attain the new limit is substantial; the City has recently been studying its infrastructure systems in an effort to develop accurate projections for capital improvement spending and has determined that there are substantial needs within the existing water, storm water, and wastewater utilities. The cost to remove phosphorus to the proposed permit level is estimated in the tens of millions of dollars. The spending of the City's limited

funds to remove a small fraction of phosphorus seems inappropriate in the face of the current capital infrastructure needs.

Aluminum: The permit proposes a limit for aluminum, which the facility will be unable to meet on a consistent basis. The pollutant is not a priority pollutant and is extremely abundant in the natural environment. The source data regarding the development of the aluminum limit is not robust and data sets cited in the study are contrary to the water quality criteria proposed. The proposed limit for aluminum does not seem to recognize the use of aluminum salts for water and wastewater treatment. The City's water plant uses aluminum-based chemistry to clean the water and the residuals are disposed to the treatment plant. Additionally, the WWTP uses aluminum-based chemistry to remove phosphorus. The elimination of aluminum from the water and wastewater processes will not be easily attained and may require the investment of million of dollars and increased operation and maintenance (O&M) costs.

E. coli: The permit changes the indicator organism for pathogen reduction effectiveness testing. The change is without benefit of study by the City to determine if the WWTP is capable of meeting the proposed limit.

3. Additional Monitoring: The draft permit adds several new monitoring requirements as well as increasing the frequency of many of the test parameters. The overall increase in samples collected and analyzed by the laboratory is more than 40%. Many of the tests require substantial effort and cost for equipment and materials. Not only will this increase the annual operating expense to the WWTP, but also will require the hiring of additional laboratory staff. The increased monitoring does not provide any additional protection to the environment and appears to only accomplish having the City pay to develop information for regulators to issue more unfounded stringent limits.
4. Whole Effluent Toxicity: The permit requirements remain unchanged; however the City repeatedly passed this test over the last permitting cycle. We request that the requirement be reduced to two times per year, which is provided by EPA's existing guidance documents included in the draft permit.
5. Routine Sampling Program: The City performs all testing in conformance with the existing permit, federal and state regulations, and Standard Methods for sample analysis. In combination with these requirements, the City uses several standard operating procedures to perform all sampling and testing. The requirement appears unnecessary and redundant.
6. Total Residual Chlorine: The draft permit extends the disinfection season by two weeks as well as requires the installation of an "alarm system" for the chlorination and dechlorination systems. The City consistently meets the permit limits and is unaware of any incident relative to the Housatonic River arising from the discharge of un-disinfected effluent. The City recently made extensive upgrades to the

disinfection system. The incorporation of an "alarm system" will be costly and the extension of the disinfection season will result in additional costs for capital and chemical due to the likelihood of low temperature impacts to the chemical feed systems. The City is confident that the recently upgraded systems are entirely reliable and do not require an "alarm system".

7. POTW Notice – Industrial: The draft permit identifies several new POTW reporting requirements including a severely restrictive condition regarding industrial dischargers. The specific condition requires "adequate notice" of "any" new or substantial change in pollutants. This condition is extremely broad by definition and onerous.
8. Special Conditions: The draft permit requires the City to optimize the facility for the removal of nitrogen. The permit also requires an annual report. The City believes that this requirement is unfair and without basis, likely leading to an unattainable limit that will result in other costly upgrades to the WWTP. The existing WWTP was designed for the oxidation of ammonia compounds and not for nitrate removal. There are no opportunities within the existing facilities to provide for further nitrogen reduction. This requirement also seems to counter the back-up in the Fact Sheet included with the draft permit which indicates that no further reductions in Total Nitrogen are required to meet the Connecticut goals.
9. Unauthorized Discharges: Any requirements for connected communities need to be addressed to those communities.
10. Operation and Maintenance: There are several new requirements contained within this section including the official development of an O&M program, an Infiltration and Inflow control plan, and an annual report including the co-permittees. The City currently maintains a preventative maintenance program. The City is also underway with an extensive I/I and SSES program to determine the capital improvements needed to sustain the infrastructure. New requirements for another program are not justified. This additional requirement is burdensome. It also appears that the City is responsible to collect data from connected communities and submit this to the EPA and MassDEP. The City currently has no means by which to require the submittal of this information or the ability to enforce a requirement under this section. The EPA and MassDEP should require this information to be collected directly from the co-permittees.
11. Development of Limitations for Industrial Users: The City currently maintains an Industrial Pretreatment Program and is updating several portions of its program. Currently based upon the limited industrial capacity of the region, it is unnecessary to complete a local limits review as most of the industries are permitted due to categorical status or for non-priority pollutants. The City requests that this mandatory requirement be removed from the permit.

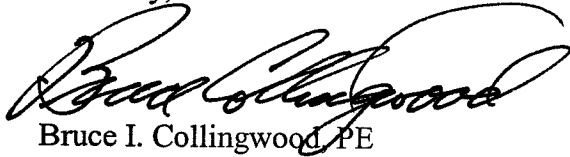
12. Industrial Pretreatment Program: As stated above the City maintains an IPP in conformance with the existing permit. We are currently in the process of updating to meet the Streamlining Rule. The deadline contained in the permit is unnecessary. Additionally the reporting dates for the annual IPP have changed and are inconsistent with the dates contained in the permit.
13. State Certification: It appears that State certification has not been made yet. The City is concerned that requirements may change again before final issuance.
14. Page 4 of the Fact Sheet: The City does not currently have gravity thickeners at the WWTP.
15. Available Dilution: There appear to be some inconsistencies in the methodology used to calculate the dilution ratios for the proposed permit limits. The basis of comparison is the average daily design flow of the facility (17 MGD), which is substantially higher than the actual effluent flow (less than 7 MGD) during 7Q10 periods.
16. Non-Conventional Pollutants: Nitrogen appears to be the next target for WWTP's; however it appears that Pittsfield is the recipient of the first such requirement. Many recently issued NPDES permits to other treatment facilities do not contain any nitrogen requirements, even though they may have substantially better existing facilities to meet this requirement. The inclusion of additional reporting and study to Pittsfield seems arbitrary and unnecessary based upon the analysis provided.
17. Phosphorus: We restate that the basis for the phosphorus limit is not thorough and does not contain convincing evidence of the need to lower the limit. Without the benefit of a TMDL, it is not appropriate to make a single entity responsible for the health of the River. Also it does not appear that the stringent limit is necessary to other facilities located on the Housatonic.
18. Copper: The Fact Sheet provides analysis that shows the existing copper limit is overly stringent. Irrespective of this fact, due to anti-backsliding requirements it is stated this limit can not be modified to the correct and more appropriate value. Additionally, the hardness value applied is different than the one used for zinc. We feel this is inappropriate.

In closing, the City strongly believes the new limits and requirements contained within the draft permit are unfair, without basis, and in many cases infeasible. Moreover, there appears to be no rationale suggesting such requirements will provide any significant improvement in the water quality of the Housatonic River, especially when measured against the negative environmental and financial impacts that will result from the construction and operation of further treatment facilities aimed at achieving compliance with the draft permit limits. The extensive capital, staffing, man-power, electricity, fuel, chemicals, and sludge produced to make fractional improvement in effluent quality are not justified. It is our sincere desire that the EPA will work cooperatively with the City to

develop a fair and balanced permit that will not result in enormous rate impacts to the users of the wastewater system, while continuing to meet the goals of the Clean Water Act.

We appreciate your consideration regarding this matter, and please call me if you should have any questions. We look forward to meeting with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce I. Collingwood". The signature is fluid and cursive, with a large initial "B" and "C".

Bruce I. Collingwood, PE
Commissioner

cc. James M. Ruberto, Mayor
John W. Olver, U.S. Representative
Richard Dohoney, City Attorney
Thomas Landry, WWTP Superintendent
Benjamin Downing, State Senator
Christopher Speranzo, State Representative
William Pignatelli, State Representative
Denis Guyer, State Representative
Al Wells, Sea Consultants, Inc.