

EXHIBIT 4



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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May 9, 2007

Roger Janson, Chief  
Municipal NPDES Permits Branch  
U.A. EPA  
1 Congress Street  
Boston, MA 02114-2023

Dear Mr. Janson:

The draft NPDES permit for the Upper Blackstone Water Pollution Abatement District (UBWPAD), which is the subject of today's hearing, is being jointly issued by the Department and the Environmental Protection Agency (EPA). However, a key provision of the draft permit, the effluent limit for nitrogen, is a federal, only requirement and therefore it is appropriate to provide our comments on the nutrient effluent limits.

The effluent limit for nitrogen in the draft permit is expressed as milligrams per liter. However, EPA permitting requirements at 40 CFR 122.45(f)(1) state that "All pollutants limited in permits shall have limitations, standards or prohibitions expressed in terms of mass."<sup>1</sup> The expressed results needed to reduce impairments to Narragansett Bay are a reduction in mass loading. While no Total Maximum Daily Load (TMDL) has been calculated to ascertain how to allocate load reductions, it is important to note that in the case of Long Island Sound, a TMDL has been completed for nitrogen that calls for a reduction in mass loading of nitrogen. In this case the discharge permits issued by Connecticut correctly contain only mass limits. Finally, mass limits for nitrogen in the UBWPAD discharge permit would give the facility the needed flexibility to manage the treatment plant while attaining strict effluent requirements and would encourage the facility to reduce its discharge volume, a notable goal unto itself. Consequently we believe that EPA should express any nitrogen limit in terms of a mass only limit.

The Draft permit contains limits for nitrogen and phosphorus that the UBWPAD facility cannot currently attain and therefore a schedule for the facility to come into compliance with those limits is necessary. The nitrogen effluent limit is meant to address impairments for Rhode Island waters and we understand that the Rhode Island Water Quality Standards for surface waters do not allow for compliance schedules to be included in a discharge permit. However, the

<sup>1</sup> There are exceptions but they not apply in this instance.

phosphorus effluent limit addresses impairments to waters within Massachusetts and the Massachusetts Water Quality Standards for surface waters do allow for compliance schedules to be included in discharge permits. Therefore we suggest that a schedule for compliance with the phosphorus limit be incorporated into the final permit. From an engineering and economic standpoint it only makes sense that when a compliance schedule for the nitrogen limit is established, the schedule should be consistent with the schedule outlined below that we are proposing for compliance with the phosphorus limit and we encourage EPA to follow this approach.

Below is MassDEP's suggested schedule for UBWPAD to attain the phosphorus effluent limits:

1. August 2009- Complete construction of ongoing upgrade
2. January 2011- initiate engineering evaluation of necessary upgrades to meet phosphorus effluent limit.
3. January 2012- complete engineering evaluation of necessary upgrades to meet phosphorus effluent limit.
4. January 2013- complete design of necessary upgrades to meet phosphorus effluent limit.
5. July 2013- initiate construction of necessary upgrades to meet phosphorus effluent limit.
6. December 2014- complete construction necessary upgrades to meet phosphorus effluent limit.
7. May 2015- obtain operational level meet phosphorus effluent limit.

Finally, MassDEP is concerned that the effluent limits for phosphorus and nitrogen were established without the benefit of scientific guidance provided by Total Maximum Daily Loads (TMDL) and the water quality goals they establish. So as to avoid a large capital expenditure without the benefit of a TMDL, MassDEP is committed to completing a TMDL for phosphorus for the Blackstone River prior to the start of construction in the above schedule. We expect that EPA will require Rhode Island to similarly complete a nitrogen TMDL for Narragansett Bay.

If you have any questions regarding these comments please contact me at (617) 292-5748.

Sincerely,



Glenn Haas, Acting Assistant Commissioner  
Bureau of Resource Protection

Cc: R. Varney, EPA  
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