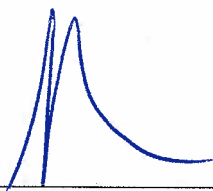


**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**


_____)
In the Matter of:)
)
City of Keene) NPDES Appeal No. 07-18
Keene, New Hampshire)
)
_____)

CERTIFIED INDEX TO THE ADMINISTRATIVE RECORD

I hereby certify that, to the best of my knowledge and belief, the materials identified in the attached list constitute the administrative record for the National Pollutant Discharge Elimination System Permit NH0100790 issued by the United States Environmental Protection Agency, Region 1 on August 24, 2007, to the City of Keene, New Hampshire, for effluent discharges from its wastewater treatment facility located in the Town of Swanzey, New Hampshire.



Samir Bukhari, Assistant Regional Counsel
Office of Regional Counsel
EPA-Region 1



Jeanne Voorhees, Permit Writer
Office of Ecosystem Protection
EPA-Region 1

DATED this 20th day of November, 2007.

**ADMINISTRATIVE RECORD INDEX
KEENE WWTF
PERMIT NO. NH0100790**

A. PERMIT DOCUMENTS

1. Final National Pollutant Discharge Elimination system ("NPDES") Permit No. NH0100790 issued to the City of Keene for discharge from the City of Keene Wastewater Treatment Facility, dated August 24, 2007, with Attachments.
2. Written Correspondence from Roger Janson, U.S. Environmental Protection Agency-Region 1, to John MacLean, City Manager, Keene, New Hampshire, transmitting the Final Permit, dated August 27, 2007.
3. State 401 Water Quality Certification, dated August 14, 2007.
4. 2006 Draft Permit and Attachments.
5. 2006 Fact Sheet.
6. Written Correspondence from Roger Janson, EPA-Region 1, to Harry T. Stewart of New Hampshire Department of Environmental Services ("NHDES"), transmitting the 2006 Draft Permit for certification, dated June 20, 2006.
7. Joint Public Notice of a Public Hearing for NPDES Permit No. NH0100790, dated June 22, 2006.
8. City of Keene Permit Renewal Application.
9. Final NPDES Permit No. NH0100790 issued to the City of Keene for discharge from the City of Keene Wastewater Treatment Facility, dated April 15, 1994, with accompanying Fact Sheet and Attachments.

B. RESPONSE TO COMMENTS

1. Response to Comments.

C. PUBLIC COMMENTS

1. Written Correspondence of John MacLean, City Manager, City of Keene, New Hampshire, dated August 23, 2006.
2. Written Correspondence by John J. Gall, Jr., Camp, Dresser and McKee on behalf of the City of Keene, dated August 24, 2006.
3. Written Correspondence by the Swanzey Sewer Commission, dated August 25, 2006.
4. Written Correspondence by Barbara Skuly, Chairman, Ashuelot River Local Advisory Committee, dated July 28, 2006.

D. PUBLIC HEARING

1. Transcript of Public Hearing, dated July 27, 2006.

E. TECHNICAL DOCUMENTS

1. Arthington, A. H., S.E. Bunn, N. LeRoy Poff, R.J. Naiman. 2006. *The challenge of providing environmental flow rules to sustain river ecosystems*. Ecological Applications 16(4), 1311-1318.
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8. Dodds, W. K., et. al. 2002. *Erratum: Nitrogen and phosphorus relationships to benthic algal biomass in temperate streams*. Can. J. Fish. Aquati. Sci. 59: 865-874. Accepted 3 March 2006. Published on the NRC Research Press Web site at <http://cjfas.nrc.ca> on 21 April 2006. J16498E.
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F. EPA RULEMAKING, GUIDANCE, AND RECOMMENDED CRITERIA

1. Federal Register Notices

- a. USEPA. 1984. Federal Register Notice: *Policy for the Development of Water Quality-Based Permit Limitations*. 49 FR 9016-03 (Friday, March 9, 1984).
- b. USEPA. 1998. Federal Register Notice: *Notice of National Strategy for the Development of Regional Nutrient Criteria*. 63 FR 34648-01 (Thursday, June 25, 1998).
- c. USEPA. 2003. Federal Register Notice: *Notice of Ecoregional Nutrient Criteria*. 68 FR 560-01 (Monday, January 6, 2003).
- d. USEPA. 2004. Federal Register: *Notice of Intent to Re-Evaluate the Aquatic Life Ambient Water Quality Criteria for Ammonia*. July 8, 2004; Volume 69, Number 130 Page 41262-41264.

2. Recommended Water Quality Criteria, Guidance Manuals and Policies

- a. USEPA 1980. *Ambient water quality criteria for copper*.
- b. USEPA. 1986. *Quality Criteria for Water* ("Gold Book"). Office of Water. Document No. EPA 440/5-86-001. Washington, D.C.
- c. USEPA. 1999. *1999 Update of Ambient Water Quality Criteria for Ammonia*. USEPA, Office of Water, Office of Science and Technology; Washington, D.C. and Office of Research and Development, Mid-Continent Ecology Division; Duluth, Minnesota. EPA-882-R-99-014.
- d. USEPA. 2000. *Nutrient Criteria Technical Guidance Manual: Rivers and Streams*. Document No. EPA-882-B-00-002. Office of Water, Office of Science and Technology. Washington, D.C.
- e. USEPA. 2001. *Ambient Water Quality Criteria Recommendations. Information Supporting the Development of State and Tribal Nutrient Criteria, Rivers and Streams in Ecoregion VIII*. Document No. EPA 822-B-01-015. Office of Water, Office Science and Technology, Health and Ecological Criteria Division. Washington, D.C.
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- h. USEPA. 2002. *National Recommended Water Quality Criteria: 2002*. Office of Water, Office of Science and Technology. Document No. EPA-822-R-02-047. Washington, D.C.
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G. NEW HAMPSHIRE REGULATIONS AND NHDES REGULATORY MATERIALS

- 1. NHDES. 1990. Title 50 Water Management and Protection, Chapter 485-A Water Pollution and Waste Disposal.
- 2. NHDES. 1999 and revisions. *Surface Water Quality Regulations, Chapter 1700*. December 10, 1999 and revisions.
- 3. NHDES. Legislative Classification of Surface Waters in New Hampshire. October 2003.
- 4. NHDES. 2004. *State of New Hampshire, Section 305(b) and 303(d) Surface Water Quality Report*. NHDES-R-WD-04-6.
- 5. NHDES. 2005. *State of New Hampshire, 2006 Section 305(b) and 303(d) consolidated assessment and listing methodology*. NHDES-R-WD-05-29. Concord, New Hampshire.
- 6. NHDES. Description of River Water Quality Parameters.
- 7. NHDES. Plan for Adoption of Nutrient Water Quality Criteria (draft).

H. DISCHARGE MONITORING REPORTS

1. 2000-2007

I. CORRESPONDENCE WITH PERMITTEE, NHDES, AND OTHERS

1. Dudley, D. 2004. Memo from Daniel Dudley, P.E., NHDES WWEB to George Berlandi, Jeff Andrews, and Sterg Spanos of NHDES WWEB; Regarding: 7Q10 Calculations for the Ashuelot River Upstream from the Keene POTW and antidegradation calculations, dated March 24, 2004.
2. Hanscom, D. 2006. Letter from Donna Hanscom (City of Keene) to Jeanne Voorhees (USEPA) Re: City of Keene: NPDES Permit No. NH0100790, dated April 18, 2006.
3. MacLean, J. A. 2006. Letter from John A. MacLean (City of Keene) to Jeanne Voorhees (USEPA) Re: City of Keene, NPDES Permit No. NH0100790. Date: June 7, 2006.
4. Murphy, L. M. 2006. Letter from Linda M. Murphy (USEPA) to Andrew W. Serell (Rath, Young and Pignatelli) Re: Extension of Public Comment Period, dated July 27, 2006.
5. Personal Communication. 2006. Telephone conversation regarding 7Q10 recalculation between Dan Dudley, NHDES, and Jeanne Voorhees, USEPA, February 27, 2006.
6. Personal Communication. 2006. Telephone conversation regarding flows accepted at the Keene WWTP from Marlborough and Swanzey between Donna Hanscom, Keene WWTP and Jeanne Voorhees, USEPA, March 22, 2006.
7. Personal Communication. 2006. Email message from Alfred Basile (USEPA) to Jeanne Voorhees (USEPA) regarding 15ppb chlorophyll *a*, dated August 30, 2006.
8. Personal Communication. 2006. Email message from Luis Cruz (USEPA) to Jeanne Voorhees (USEPA) Re: 2003 draft copper criteria document, dated September 1, 2006.
9. Personal Communication. 2006. Email messages between Alfred Basile (USEPA) and Jeanne Voorhees (USEPA) Re: Nutrient Comment from Keene, dated September 6 & 8, 2006.
10. Personal Communication. 2006. Email series between Barbara Skuly and Jeanne Voorhees (USEPA) Re: Ashuelot River photographs, dated September 11, 19 & 20, 2006.
11. Personal Communication. 2006 and 2007. Email messages between Dan Dudley (NHDES) and Jeanne Voorhees (USEPA) regarding hardness for the derivation of metals limits, dated September 11-12, 2006 and January 24, 2007.
12. Personal Communication. 2006. Email messages between Jeanne Voorhees (USEPA) and Gregg Comstock (NHDES) Re: Ashuelot River 303(d) listing and Dissolved Oxygen, dated October 12, 13 & 16, 2006.

13. Personal Communication. 2006. Email message from Jeanne Voorhees (USEPA) to Samir Bukhari (USEPA) and David Pincumbe (USEPA) regarding Volunteer monitoring data vs NHDES monitoring data, dated October 23, 2006.
14. Pimpare, Justin. 2006. Letter to Eric Swope, Keene Wastewater Treatment Plant, regarding the *City of Keene Local Limits Development* from Justin Pimpare, dated August 28, 2006.
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17. Personal Communication. Email messages between Dan Dudley (NHDES) and Jeanne Voorhees (USEPA) regarding dilution, dated October 14, 2005.
18. Personal Communication. Email messages between Dan Dudley (NHDES) and Jeanne Voorhees (USEPA) regarding BOD/CBOD, dated January 9, 2006.
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20. Personal Communication. Email message between Dan Dudley (NHDES) and Jeanne Voorhees (USEPA) regarding 7Q10, dated October 13, 2006.
21. Personal Communication. Email message between Dan Dudley (NHDES) and Jeanne Voorhees (USEPA) regarding dynamic modeling, dated October 17, 2006.
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23. Personal Communication. Email message between Brian Pitt (NHDES) and Samir Bukhari (USEPA) and Mike Fedak (USEPA) regarding discussions with the City of Keene, NHDES over TMDL and phosphorus limits, dated July 13, 2006.

J. SITE SPECIFIC BACKGROUND STUDIES, REPORTS AND INFORMATION

1. Ashuelot River Study Area and Sampling Extent Map; Ashuelot River TMDL Sampling Stations.
2. NHDES. 1993. *The Ashuelot River: A Report to the General Court, June 1993*.
3. Map and related table showing location of dams on the Ashuelot River.
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 15. Raw data from NHDES OneStop underlying graphical depiction of continuous dissolved monitoring data collected for the Ashuelot River TMDL (August 15-August 17, 2001).
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 18. NHVRAP & NHDES. 2005. *New Hampshire Volunteer River Assessment Program. 2004 Ashuelot River Water Quality Report*. NHDES-R-WD-05-03. Concord, New Hampshire.
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 20. TetraTech, N-Steps Peer Review of Nutrient Limits.
 21. VHB 2005. *Draft Homestead Dam Feasibility Study, West Swanzey, New Hampshire*. Vanasse Hangen Brustlin, Inc. Bedford, New Hampshire.
 22. Pitt, Brian. USEPA. May 2, 2006. Calculations showing instream concentrations based on a mass limit of 25 lbs/day.
 23. Wright-Pierce. 1996. *Phosphorous Minimization Study for the Keene Wastewater Treatment Plant, City of Keene, New Hampshire*. Prepared for

the City of Keene by Wright-Pierce, Engineers and Surveyors, Topsham,
Maine.

K. MISCELLANEOUS

1. Town of Swanzey WTP Fact Sheet