



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

VIA CERTIFIED MAIL

December 30, 2008

Eurika Durr, Clerk of the Board (MC 1103B)
Environmental Appeals Board
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-001

Bruce I. Collingwood, P.E.
Commissioner
Department of Public Works and Utilities
City Hall
70 Allen Street
Pittsfield, MA 01201

**Re: Notice of Contested and Uncontested Conditions of NPDES Permit No. MA0101681
City of Pittsfield Wastewater Treatment Plant
NPDES Appeal No. 08-19**

Dear Ms. Durr and Mr. Collingwood:

On September 9, 2008 the City of Pittsfield, Massachusetts ("Permittee") filed a Petition for Review of NPDES Permit No. MA0101681 ("Permit") with the Environmental Appeals Board ("Board") pursuant to 40 CFR § 124.19(a). The Permit had been reissued to the Permittee on August 28, 2008 by the New England Regional Office of the U.S. Environmental Protection Agency ("Region"). The Permit superseded the permit issued by the Region on October 3, 2000 ("Prior Permit").

In its Petition, the Permittee contests the following limitations and conditions of the Permit:

- (i) the seasonal (April 1st - October 31st) monthly average phosphorus limit of 0.1 mg/l;
- (ii) the seasonal (November 1st - March 31st) monthly average phosphorus limit of 1.0 mg/l;
- (iii) the average monthly aluminum limit of 171 µg/l;
- (iv) the seasonal (April 1st - October 31st) average monthly and maximum daily *Escherichia coli* (*E. coli*) limitations of 126 colony forming units per ml (cfu/ml) and 409 cfu/ml, respectively;

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- (v) the average monthly and maximum daily total recoverable copper limits of 18.0 µg/l and 22.9 µg/l, respectively;
- (vi) the inclusion of the Towns of Dalton, Lenox (North), Hinsdale, and Lanesborough as co-permittees;
- (vii) new monitoring requirements and increased monitoring frequencies for the following parameters:
 - (a) E. coli – new monitoring requirements;
 - (b) Fecal coliform bacteria (for the first year that the Permit is in effect) – extension of the season in which the limits and conditions apply (from April 1st - October 15th to April 1st - October 31st) and an increase in the monitoring Frequency from once per week to twice per week;
 - (c) Total residual chlorine – extension of the season in which the limits and conditions are in effect (from April 1st - October 15th to April 1st - October 31st);
 - (d) Phosphorus – increase in the monitoring frequency (from twice per week from April 1st - April 30th, three times per week from May 1st - August 30th, and once per month from September 1st - March 31st to three times per week from April 1st - October 31st and once per week from November 1st - March 31st);
 - (e) Ortho-phosphorus – new monitoring requirements;
 - (f) Ammonia nitrogen – increase in the monitoring frequency from once per month to once per week from October 1st - March 31st;
 - (g) Total Nitrogen – new monitoring requirements;
 - (h) Total kjeldahl nitrogen, total nitrite nitrogen, and total nitrate nitrogen – new once per month influent monitoring requirement and an increase in the frequency of effluent monitoring from once per month to once per week;
 - (i) Aluminum – new monitoring requirements;
 - (j) Lead – increase in the monitoring frequency from once per calendar quarter to once per month;
- (viii) the requirement for the development of and adherence to a routine sampling program (i.e., the collection of samples at the same location, time, and on the same day of each month);
- (ix) the requirement for the reporting of any new or substantial change in the pollutant loading or flow discharged to the facility by an industrial user;
- (x) the special condition requiring the submission of an evaluation of ways in which treatment at the existing facility could be modified to enhanced/maintain nitrogen removal rates, and the requirement for the annual reporting of the annual nitrogen load discharged from the facility in conjunction with a summary of nitrogen removal optimization measures employed at the facility over the previous reporting year;
- (xi) the requirement for conducting a reassessment of technically-based local limits as well as the requirement for the submission of the results of the reassessment;
- (xii) the requirement for the incorporation of an alarm system into the chlorination system;
- (xiii) compliance with the Pretreatment Streamlining Rule (i.e., the requirement for the submission of all modifications made as required by the Pretreatment Streamlining Rule); and
- (xiv) the due date for the submission of the annual Industrial Pretreatment Program report.

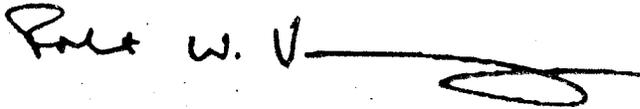
The limitations and conditions contested by the permittee are collectively referred to herein as the "Contested Conditions." Pursuant to 40 CFR §§ 124.16(a)(2)(ii) and 124.60(b), this letter notifies you of my determination that the Contested Conditions are stayed until final agency action under 40 CFR § 124.19(f).

Furthermore, the Region is hereby withdrawing the copper effluent limitations in the Permit pursuant to 40 C.F.R. § 124.19(d). Following thirty days from the date of this Notice, the Region intends to issue for public comment a draft permit modification which would propose slightly less stringent copper limitations. The draft permit modification will proceed through the same process of public comment and opportunity for a public hearing as would apply to any other permit modification subject to 40 C.F.R. Part 124.

All other conditions of the Permit are uncontested and severable from the Contested Conditions. Thus, all of the other conditions are not stayed and will become fully effective enforceable obligations of the Permit on February 1, 2009 pursuant to 40 CFR § 124.16(a)(2)(i). With respect to each of the Contested Conditions, including the withdrawn copper limitations, the corresponding term, if any, in the Prior Permit shall remain in effect.

If you have any questions regarding this correspondence, please feel free to contact Ann Williams, the Region's legal counsel in this matter at 617-918-1097, or Meridith Timony, in the Region's Office of Ecosystem Protection, at 617-918-1533.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Varney", followed by a long horizontal line that ends in a loop.

Robert W. Varney
Regional Administrator

cc: Paul Hogan, MassDEP