



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



August 18, 2020

Ellen Weitzler, Acting Chief
Water Permits Branch
Water Division
EPA New England
5 Post Office Square, Suite 100 (06-1)
Boston, MA 02109-3912

Subject: Keene Wastewater Treatment Plant
Certification of NPDES Permit No. NH0100790

Dear Ms. Weitzler:

By letter dated May 15, 2020, the U.S. Environmental Protection Agency (EPA) requested state certification, in accordance with §401 of the Clean Water Act, of the proposed reissuance of an individual NPDES permit to the City of Keene for the discharge of treated wastewater from the Keene Wastewater Treatment Plant to the Ashuelot River. On June 22, 2020 NHDES requested an extension of the state certification due date, and through correspondence dated July 13, 2020, EPA extended the due date for certification to August 19, 2020. It is noted that NHDES' June 22, 2020 certification extension request letter did request an extension of the state certification due date until 21 days after EPA has provided DES with a draft Response to Comments and the final Keene WWTP NPDES permit in accordance with 40 CFR § 124.53(c)(3). EPA denied this request and granted a 30-day extension.

EPA gave public notice of the availability of the draft permit, including the fact sheet, on May 20, 2020. The public notice provided a public comment period until July 20, 2020, and stated that the draft permit and fact sheet could be obtained at the EPA New England website at <https://www.epa.gov/npdes-permits/new-hampshire-draft-individual-npdes-permits>, or by writing or calling the permit writer at the EPA Region 1 office.

After review of the draft permit, state certification is hereby granted pursuant to §401 of the Clean Water Act with the condition that, for the purpose of determining reasonable potential and developing permit limits, EPA use the water quality standards in New Hampshire Code of Administrative Rules Env-Wq 1700, as readopted with amendments by Document #12042 and effective on December 1, 2016. While these water quality standards have not yet been approved by EPA, the New Hampshire Department of Environmental Services (NHDES) has determined that they are necessary to protect water quality in New Hampshire.

The draft permit, with the condition noted, will ensure that the requirements in Title L RSA 485-A and New Hampshire Code of Administrative Rules Env-Wq 1700 (Surface Water Quality Standards) are met. Per EPA's July 13, 2020 correspondence, EPA has given NHDES until August 19, 2020 to certify this permit. As such, NHDES is required to provide this certification without the opportunity to view the final permit or responses to public comments. Therefore, this certification is for the above referenced draft permit provided during the public comment period only. This certification does not pertain to any modified draft or final permit that may be created later or to any modifications to the draft permit created in response to public comments or otherwise, including, but not limited to, any modifications to the draft permit limits or monitoring requirements.

It should also be noted that per Title L RSA 485-A:8(II), "The commissioner shall not calculate nutrient discharge limits for aquatic life and human health criteria based on 7Q10 flow or such other flow criteria more restrictive than 7Q10." As a result, state certification is granted with the comment that the average monthly total phosphorus permit limit from April 1 through October 31 of 0.18 mg/L, derived by EPA using a 7Q10 flow, will not be adopted in the State Surface Water Discharge Permit. Upon final issuance by EPA, NHDES may adopt all other terms and conditions of the permit, as applicable, as a State Surface Water Discharge Permit pursuant to RSA 485-A:13.

Sincerely,

Thomas O'Donovan, P.E., Director
Water Division

cc: George Papadopoulos, EPA-Region 1
Tracy Wood, P.E., Administrator, NHDES WD-WWEB
Ted Diers, Administrator, NHDES WD-WMB
Sergios Spanos, P.E., NHDES WD-WWEB
Hayley Franz, P.E., NHDES WD-WWEB