

**Be a voice in support of the
Kickemuit River-
become a volunteer.**

I'd like to volunteer to help with:

- Cleanups
- Habitat Restoration
- Water Quality Monitoring
- Development Tracking
- Youth Programs
- Fund-raising
- Administrative Tasks

I'd like to stay informed:

- Add my name to the mailing list

Name: _____
 Address: _____
 City: _____ State: _____
 E-mail: _____
 Phone: _____

Contact preference, please check one

- I'd like to order an 8" x 10" photo**
 Qty. A: South looking North \$15.00
 Qty. B: North looking South \$15.00

Donations and checks for photographs are payable to the Kickemuit River Council.
 The full amount of your tax deductible contribution will be dedicated to Kickemuit River preservation.
 The Kickemuit River Council is a nonprofit 501(c)(3) organization.

Kickemuit River Council
 PO Box 590
 Warren, RI 02885

Who we are: The Kickemuit River Council exists to preserve, protect, and enhance the water quality of the Kickemuit river and its tributaries and to maintain it as a Salt Water Class A river.

To fulfill this purpose, the Kickemuit River Council encourages the improvement and protection of the Kickemuit River, informs and educates the public about the Kickemuit River, and serves as an advocate for the Kickemuit River so that, for all generations to come, we may have a legacy of natural beauty and charm.

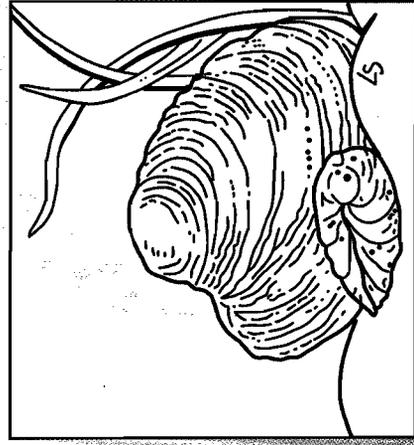
Formed in 1973, the Kickemuit River Council is an all volunteer organization comprised of three delegates from areas around the Kickemuit River and individuals committed to preserving the magic of the Kickemuit River, a gift whose worth cannot be measured except by the heart.

visit us on the web at
www.kickemuitriver.org

Kickemuit River Council
 is proud to be a member of
 The Rhode Island Rivers Council



Rhode Island Rivers Council
 Working together to protect and restore
 Rhode Island's rivers and their watersheds.



K R C

Kickemuit River Council



*The Kickemuit River
 cannot speak for itself.
 It needs a voice.*

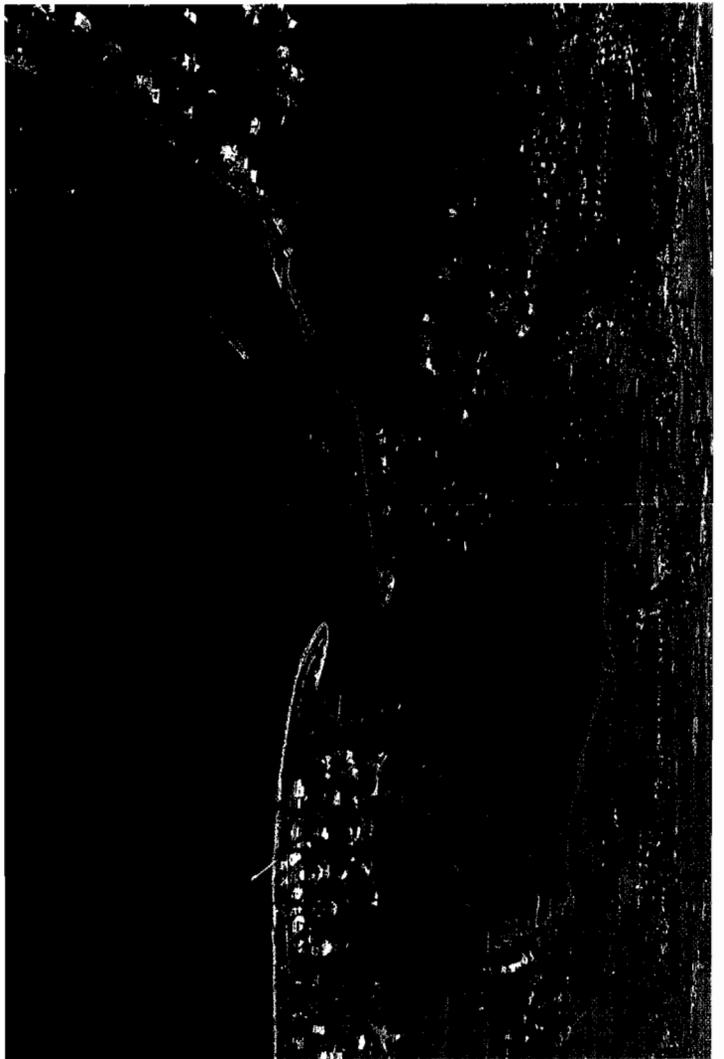


Photo A: South looking North

Photos courtesy of Pillsbury Associates

Don Pillsbury © 1993

The Kickemuit River is magic... its water

The job of protecting the Kickemuit River requires the dedication of all who love it.

Challenges to come:

- Retain the Kickemuit River as a salt water class A river suitable for quahogging and water contact recreation
- Identify and mitigate all sources of pollution to the Kickemuit
- Restore and protect wetlands and coastal habitats.
- Encourage protection of open space and farmland
- Monitor development proposals in the Kickemuit watershed
- Educate the community about actions they can take to preserve the natural resources of the Kickemuit

The Kickemuit River Council addresses threats to the water quality of the Kickemuit River. Some major achievements have prevented degradation of the waterway:

Promises Kept:

- Stopped the discharge of filter-backwash silt into the Kickemuit
- Opposed construction of a marina adjacent to a prolific shellfishing area
- Stopped discharge of contact cooling water from Carol Cable
- Supported construction of sewers and sewer tie-in of all residents
- Initiated the Kickemuit River Project to monitor storm water discharges
- Discovered and persuaded DEM to remediate an old dump leaching pollution into the Kickemuit

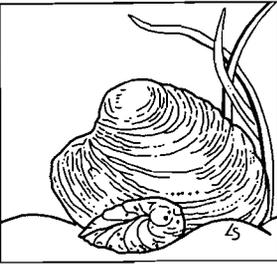
runs through our veins.



Photo B: North looking South

Don Pillsbury © 1993

**K
R
C**



PO Box 590 Warren, Rhode Island 02885

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2007 FEB 20 PM 1:45

2-19-07 ENVIR. APPEALS BOARD

Kickemuit River Council

a nonprofit 501(c)(3)
all volunteer organization

U.S. Environmental Protection Agency

Environmental Appeals Board

% Eurika Durr, Clerk of the Board

Colorado Building

1341 G Street, N.W., Suite 600

Washington, D.C. 2005

**Re: Brayton Point Power Station--NPDES Permit # MA0003654
Support for Region 1's Permit and the "Determination on Remand"**

Dear Board:

The Kickemuit River Council (KRC), an all volunteer, 501C3 organization, founded in 1973, a member of the R.I. Rivers Council, incorporated in the State of R.I., represents app. 350 families along the shores of the saltwater Kickemuit River in Warren and Bristol, R.I. We are dedicated to the protection, preservation, and improvement of the Kickemuit River. It is the reason our organization exists.

KRC supports Region 1's "Determination of Remand from the EPA Environmental Appeals Board (Brayton Point Station, NPDES Permit # MA0003654 issued by the New England Region 1 office of the U.S. Environmental Protection Agency on two substantive technical issues and two administrative issues. . KRC supports the final National Pollutant Discharge Elimination System (NPDES permit to Brayton Point Power Station (Dominion Energy (formerly U.S. Gen) issued by Region 1's EPA Agency. KRC urges the EAB to enforce the permit issued on 10-06-03, pursuant to the Federal Clean Water Act, 33 U.S.C.1251, et seq. The Kickemuit River, and Mt. Hope Bay is suffering. It has been too long. " The Kickemuit River cannot speak for itself it needs loud voices from those who know, love it, and want to save it." (P.J. 1969) Region 1's EPA is one of those voices. KRC thanks the EAB for its analysis, and asks now that the permit moves forward.**

Sincerely,

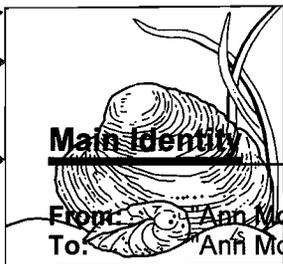
A handwritten signature in black ink that reads "Ann Morrill". The signature is written in a cursive, flowing style.

Ann Morrill, KRC 1st Vice President

90 Dexterdale Rd., Prov., RI 02906

Tel.# 1-401-274-6927

annmorrill@verizon.net

K
R
C**Main Identity**

From: "Ann Morrill" <annmorrill@verizon.net>

To: "Ann Morrill" <annmorrill@verizon.net>

Sent: Sunday, February 18, 2007 8:47 PM

Subject: Kickemuit River Council Certificate of Service for EAB "Determination on Remand" BPPS

a nonprofit 501 (c) (3)
all volunteer organization**CERTIFICATE OF SERVICE**

I hereby certify that on the 19th day of February, 2007, copies of the foregoing Memorandum of Law in Support of Region 1's "Determination on Remand" were sent by first class mail, postage prepaid to the parties listed below:

_____, Kickemuit River Council 1st Vice President

U.S. Environmental Protection Agency
% Clerk of the Board, Environmental Appeals Board
Colorado
Building
1341 G Street, N.W., Suite 600
Washington, D.C. 20005 20005

Mark Stein, Esq.
US EPA
Region 1(RAA)
One Congress St., Suite 1100
Boston, MA 02114-2023

Pamela Faggert, Vice President
Dominion Energy New England
5000 Dominion Blvd
Glen Allen, VA 23060

Barry Ketschke, Director
Dominion Energy New England
1 Brayton Point Rd.
Somerset, MA 02726-0440

Steven Roth, KRC President
1 Riverview Ave., Bristol, RI 02809

2/18/2007

Patrick Lynch, Attorney General of RI
Tricia Jedel, Esq.
150 North Main St., Prov., RI 02903

Wendy B. Jacobs, Esq.
Foley Hoag, LLP
155 Seaport Blvd.
Boston, MA 02210-2600

Dr. W. Michael Sullivan, RI DEM Director
Angelo Liberti & Brian Wagner, Legal Counsel
235 Promenade St.
Prov., RI 02908

MA DEP % Arleen O'Donnell, Commissioner
Richard Lehan, Deputy General Counsel
One Winter St., Boston, MA 02108

Wendy Waller, Esq.
Save the Bay
100 Save the Bay Drive
Prov., RI 02905

Fall River City Council
1 Government Center
Fall River, MA 02722

Warren Town Council
% Frank Alfano, President
Warren Town Hall
Main St., Warren, RI 02885

Bristol Town Council
% Ken Marshall, President
10 Court St., Bristol, R.I.

Taunton River Watershed Alliance, Inc.
% Bill Fitzgerald, Interim Executive Director
% Bill Shafer, President
P.O. Box 1116, Taunton, MA 02780

Conservation Law Foundation
% Carol Lee Rawn
62 Summer St., Boston, MA 02138

James Allison III, Esq.
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd St.
Richmond, VA 23219-4074

Save Bristol Harbor
% Stan Dimock
Save the Bay
100 Save the Bay Drive, Prov., RI 02905

Ken Marshall, R.R.C. 1st V.P.

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

2007 FEB 20 PM 1:46
ENVIR. APPEALS BOARD

**In re: Dominion Energy Brayton Point, L.L.C.
Formerly: US Gen New England, Inc.
Brayton Point Station**

vs.

NPDES Appeal # 03-12

NPDES Permit No. MA0003654

**KICKEMUIT RIVER COUNCIL'S (KRC) MEMORANDUM
OF LAW IN SUPPORT OF EPA REGION 1's
"Determination on Remand" Filing with the
Environmental Appeals Board and Region 1's National
Pollutant Discharge Elimination System (NPDES) Permit
to Brayton Point Station (BPS) pursuant to the Federal
Clean Water Act, 33 U.S.C.**1251, et seq. on 10-05-03
(Permit) and EAB's Remand of Two Technical Issues
with EPA Region 1's Resolution of the Remanded Issues
on 11-30-06 . KRC has carefully Evaluated Region 1's
Decisions on the Remanded Substantive Issues and
Supports Region 1's Decisions that Region 1's Earlier
Decisions Regarding the Substantive Issues should be
REAFFIRMED and NO CHANGES TO THE PERMIT'S
LIMITS ARE NECESSARY OR APPROPRIATE.
OF THE NPDES PERMIT, NO. MA0003654**

Participation

The Kickemuit River Council moves for leave to file this

Memorandum of Support for the EPA's Region 1's resolution of the

"Determination on Remand" to the EPA Environmental Appeals

Board (EAB) on NPDES Permit # MA0003654 (Brayton Point Power

Station (BPPS).

The Kickemuit River Council is a 501C3, all volunteer, a member of the Rhode Island Rivers' Council, formed in 1973, incorporated in the State of Rhode Island, and is composed of app. 350 families along the shores of the saltwater Kickemuit River, the only Rhode Island river of the 4 rivers that flows into Mt. Hope Bay. Our purpose is to protect, preserve, and improve the Kickemuit River, and to insure that the waters of the Kickemuit River are protected and improved for the citizens living now and for the future generations. KRC is qualified to provide this Memorandum of Support for KRC has provided:

1. Testimony at the hearings the EPA has conducted on Brayton Point Power Station (BPPS) on the deleterious effects of BPPS on the environment and life of the Kickemuit River, Mt. Hope Bay and Narragansett Bay.
2. KRC collected a petition of 647 United States citizens supporting the EPA in its permitting of BPPS. (Citizens from East to West And North to South) presented to the EAB Board (9-09-04)
3. KRC spoke at Town and City Council meetings and groups, and gained their support for EPA's permitting of BPPS, & presented

their letters to the EAB, as well as letters from young teenagers who live with the results of BPPS' actions. (9-09-04)

4. KRC wrote, filed, and presented our Amicus Curiae Brief to the EAB in Washington, D.C.(0-09-04)
5. We are very poorly affected by the discharges of Brayton Point Power Station.

(All Available upon request from Tel.# 1-401-274-6927.)

KRC is deeply concerned that the Thermal Discharge Issue under CWA #316(a) is paramount. We are one of the parties who think that the permit should be even more stringent with 0 days of discharge. A Closed Cycle with 5 days discharge should help the Bays.

KRC is supporting EPA Region 1 in their "Determination on Remand."

We are deeply concerned that the delay in the implementation of this permit will cause more sea life such as fish and crustaceans:

lobsters, horseshoe crabs, blue crabs, fiddler crabs, hermit crabs-- to no longer exist in our environment. Our members are also deeply concerned about the precipitous drop in all of these crustaceans due to the addition of Spectrus 1300, a crustacean biocide, at the rate of .16 mg. per LITER. (The BPPP) takes in approx. 1 billion gallons a day!) In one year, Brayton Point uses, among MANY other

chemicals, 68,000 lbs of hydroxy acetic acid, 47,000 lbs. of hydrochloric acid, 29,000 lbs. of formic acid, 400,000 lbs. of sodium hydroxide, and 100,000 lbs of sodium hypochlorite. Closed cycle even with 5 days will alleviate this destruction. We ask the Appeals Board to immediately enforce 316(a) and uphold Region 1's Permit and "Determination of Remand" to "assure the protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife." It upsets us that Dominion (US Gen) delays while our environment suffers. BPPS has decimated our blue crabs, horseshoe crabs, conchs, periwinkles and they present a study on the Brayton Point Power Station to the EAB Board that involves FRESHWATER FISH IN THE OHIO RIVER where, BPPS bragged at the EAB hearing in Washington that no one was complaining along the Ohio River about power plants bad practices. KRC's rep, Jean McCabe, testified that this was a tragedy. Well, now the citizens there are! The Ohio River does NOT have the sea life that Mt. Hope Bay and saltwater fish require.

KRC comments on Exhibits presented to the EAB by Dominion(US Gen) :

A. from Brungs and Jones 1977 "Temperature Criteria For

Freshwater Fish:...; & also 1942, 1946, Frye et al... Brett (1952; 1956)

Section 3, p. 11 "Short term Exposure to Extreme Temperature" ..

"These exposures should not be too lengthy or frequent or the species could be adversely affected." BPPS's discharges are lengthy and frequent.

B. Page 16 lists the FRESHWATER fish involved--Inappropriate and misleading Data. These studies are old. The environment and stresses for fish are different. Our sealife is NOT freshwater.

B. The study by Lesa Meng and Giancarlo Cicchetti p. 1509 states:

"Alteration and loss of coastal habitats such as salt marshes and eelgrass beds is believed to be one of the most important factors contributing to declines in populations of economically important fish, shellfish, and aquatic-dependent wildlife." (Deegan & Day 1984)

(KRC members with Save the Bay tried to plant eelgrass seedlings to replace established beds that have disappeared in the Kickemuit River. The transplants were unsuccessful. It is well known that eelgrass likes cool water. The water since 1985 & BPPS's open cycle cooling is too warm.)

Same study submitted by BPPS to EAB mentions: Poole 1966; Heck et al. 1989; Sogard & Able 1991; Goldberg et al. 2002; Meng et al.

2004 states :

1. "Habitats known to be important to juvenile winter flounder include eelgrass beds, coves, upper estuaries, and unvegetated shallows."

The Kickemuit River is an estuary.

2. "Criteria to protect habitat are expected to be similar to water quality criteria in that habitat alteration is expected to stress a system and produce a response in aquatic species such as decrease in fish density." The Towns of Warren and Bristol and KRC have worked for 24 years to improve the water. Significant monies by both Towns to install sewer system, etc., as well as other projects by the KRC and the Eastern Rhode Island Conservation District (ERICD) and New England Grassroots Environment Fund (NRGREF), the Rhode Island Rivers Council, and EPA through the RI Department of Environmental Management have been expended.

Water quality is not an issue here. The Kickemuit River, because of wonderful efforts by Bristol and Warren citizens, is classified Saltwater Class A in dry weather. (See KRC Exhibit A: RI DEM Ambient Water tests from 1990 & in recent years.

(See Exhibit B)

This is a temperature and biocide problem from BPPP that closed cycle cooling will help. This delay has gone on long enough. KRC

urges the EAB to support EPA Region 1's "Determination on Remand."

3. Same study: Meng et Al. EAB should note the study site. It is not near the Kickemuit River. (See exhibit C): (Map of the range of the effects of BPPS on Narragansett Bay) Meng's study takes place 25 miles SW of BPPS on exhibit C (Save the Bay map on the range of BPPS). The area is on the ocean & receives fresh ocean water. It doesn't seem to KRC that 977 fish in 163 tows in 2002 (# 596) 2003 (#381) is a lot of fish. You can see by the map that BPPS affects Narragansett Bay, also. Fish are affected in both Bays but (Under the Discussion Section of the Meng et Al. study that Dominion underlined) environments 25 miles away are not experiencing the same temperature and biocide effects as Mt. Hope Bay and the Kickemuit River. It is not just about winter flounder. Winter flounder is an example. It is also about a wide variety of disappearing sea life in Mt. Hope Bay and the Kickemuit River. The study that EPA showed is that the EAB may appreciate that one type of fish is so poorly affected. We, the citizens who live on the river have observed a dramatic, precipitous drop in many varieties of sea life. Who is studying the eels, the conchs, the crabs, the tautog, the

mummichogs, etc.? No one. Who is helping them? Region 1 EPA .

BPPS has a significant negative local and regional impact by releasing, according to the EPA, 1,827,156 pounds of hazardous chemicals (both on and off site releases). The Clean Water Act should protect us and it is time it was enforced, and this permit was put into effect. It is time BPPS cleaned up its act. These scurrilous delay tactics help to increase their profit margin at our environment's expense. Dominion knew when they purchased BPPS that this permit was coming. They have on staff lawyers to challenge this permit--to delay--to continue hurting our environment. Let Dominion and US Gen provide the EPA Region 1 and the EAB their reports to their stockholders from 1984, the year before they went on open cooling, until the present. They have made money on our environment.

There is a nineteenth century Cree Indian saying:

“Only when the last tree has died

And the last river has been poisoned

And the last fish has been caught

Will we realize that we cannot eat money.”

This Kickemuit is an Indian word that means place of the clear

spring. If you walk in the river, you can feel the cold freshwater springs bubbling up (saving us from complete death by BPPS).

There are three ways to spell Kickemuit with an e, an a, or an i in the middle. KRC chose e:

E for earth, ecology, environment, everyone, everywhere, for EVER-- and now we can add E for EPA and EAB. Who else can help in this?

Both 316(a) and 316(b) should be enforced in this permit. This plant now puts an excessive thermal load (annual average 42 trillion

BTUs) into our waters . This is the amount of energy used by app.

300,000 homes during a New England heating season burning home heating oil! Brayton Point takes in approx. 1 billion gallons a day from

our Mt. Hope Bay and this is damaging the Bay and the Kickemuit

River. Consider: 316(b). This open cooling is killing the sea life, and

the life of our rivers and Mt. Hope Bay, and ultimately, Narragansett

Bay.

It is hurting our fishing:

(annual losses of 251 million winter flounder, 11.8 billion bay

anchovy;

375 million windowpane flounder, and 3.5 billion tautog--to name a

few!) and our lobstering industries. When a female lobster molts, she

sheds her shell and is impregnated. She stays in her hole until her new shell grows and is flooded with Spectrol 1300, a crustacian biocide, from BPPP. It is no wonder our lobsters, blue crabs and horseshoe crabs have almost disappeared! KRC asks the EAB to accept this "Determination on Remand" while considering the Clean Water Act: CWA **316(a) and 316(b), under CWA* 401(a)(1). To the KRC, this permit is not even stringent enough pursuant to CWA* 401(a)(2).

We accept Region 1's analysis at this time.

We are the citizens who suffer and have suffered with this Plant. Delaying causes us, the wildlife, and the environment harm. We are asking EAB to protect us and accept Region 1's "Determination on Remand". We appreciate EAB's thoroughness in asking for the remand on the two substantive technical issues and two administrative issues, but, we urge EAB to accept Region 1's "Determination on Remand" so our environment can improve and Life can exist.

We have watched the sea life of Mt. Hope Bay and the Kickemuit River die, with this open water cooling and chemicals. We have worked so hard to correct any bacterial pollution in the Kickemuit

River with the Kickemuit River Project. (KRP)

(Kickemuit River Project available on request and KRP was presented to EAB on 9-09-04 in Washington, DC by KRC's representatives: Jean McCabe and Daniel Morrill.)

The Towns of Bristol, Warren, and their Conservation Commissions and Land Trusts, Town of Portsmouth, the City of Fall River, Ma., whose residents are dependent on the fishing industry, the Massachusetts Audubon Society, the Eastern R.I. Conservation District, the Associations such as Laurel Park Improvement Association, founded in 1921, Hopeworth Community Association, Inc. who are on Mt. Hope Bay, Clean Water Action, a national environmental group, Prudence Island Conservancy; the Sakonnet River Association, Healthlink, The Coalition for Buzzards Bay; The Taunton River Watershed Alliance, the Westport River Watershed Alliance, both in Massachusetts-- All have spoken as United States citizens to the EPA to permit and enforce a standard for Brayton Point Power Station that does NOT wreck our environment. They have all testified to the destruction they have experienced and witnessed--as do we, the Kickemuit River Council. Their written

objections were presented by KRC to the EAB in Washington, DC on 9-09-04. Our young citizens, not old enough to vote, have witnessed what is happening in Mt. Hope Bay and environment. They, too, have testified to the EPA. They and we, look to the Environmental Appeals Board for quick and thorough help. When we were collecting the petition, they brought their parents to sign and were upset that there was not a petition for them to sign for they were not old enough to vote. They wrote letters to the EPA . We, too, have copies of the 79 letters they wrote. They are the future and you, the EAB, hold their future and the future of their environment in your hands. **Letters available on**

request--1-401-274-6927) (Presented to EAB on 9-09-04)

Section 315(b) of the federal Clean Water Act governs the cooling water intake structures (CWISs) and requires that the "location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impacts." The Kickemuit River Council trusts the EPA to enforce this section 315(b) for the BPPP.

This company is delaying to our country's and citizens' detriment.

Dominion (US Gen) should be mandated to straighten out their act,

as soon as possible. An 87% decline in finfish populations was documented by R.I. DEM's biologist, Mark Gibson in 1996-- Eight years ago. We have lived with this flagrant pollution for too long. We look to you , the EAB and 316(b) for help. We have included a map of the wide range effect of Brayton Point which include almost all of the R.I. shore. (See exhibit 1)

Before the year 2000, PG & E dumped toxic combustions waste into unlined or limitation pits on site at Brayton Point, where rainwater would leach out heavy metals such as mercury, lead, and arsenic into the ground water. They have been made to stop, but what of the effects. KRC mentions this so EAB can be aware of what we, the citizens of the East Bay have lived with. Many of our R.I. & MA citizens have wells. Does Dominion (US Gen) now cover their coal pile with a high cover to prevent heat buildup so the rain will not bring pollutants to our ground water?

In 1985, a test of our sediment in the Kickemuit River indicated a safe level of all parameters (one year after Brayton Point went to open cooling). In 2003, after 19 years of open cooling, the sediment shows damage. (Studies presented to EAB on 9-09-04.)

We look to our EAB to stop this degradation of our environment and accept the Region 1's "Determination on Remand."

KRC supports the EPA in the fact the closed cycle cooling is the only technology that will allow Mt. Hope Bay and the Kickemuit River to recover. (315(b) The overriding principal of the Federal Clean Water Act is the protection of aquatic life and the minimization of adverse environmental effects. (66 Fed. Reg. at 65, 314 co.3) KRC is living with the poor effects of BPPP. The delay is hurting us, the citizens of the United States.

The CW Acts purpose "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. 33 U.S.C. *1251(a). It is past time.

States' Rights

EPA regulations provide that NPDES permits are to contain EPA promulgated technology based limitation (40 CFR*122.44(a), and water quality based limitation necessary to insure compliance with State water quality standards (40 CFR*122.44(d)), and conditions that assure compliance with State statutory or regulatory requirements and the CWA (40 CFR *122.43(a), (b) (1).

Congress has specifically recognized state rights

and responsibilities to prevent, reduce, and eliminate pollution." 33 U.S.C. *1151(b). Congress has chosen NOT to preempt state rights and responsibilities over its waters and specifically recognized that the state may chose to compel its industry to create innovative and more effective pollution-control technology. In fact, the states are required to do so: 33 U.S.C. *1313.

The states setting of water quality standards is one of the Clean Water Act's (CWA) primary objectives. (301(b)(1)(C). Section 510 of the Act is explicit on the autonomy of state standards. It states that nothing "shall preclude or deny the right of any State to adopt or enforce (A) any standard respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution." Section 510 provides that States, political subdivision, and interstate agencies retain the right to set more restrictive limitations than those imposed under this Act.

The R.I. Constitution, Article 1, Section 17, reads" Fishery rights-- Shore privileges--preservation of natural resources.- The people shall continue to enjoy and freely exercise all the rights of fishery, and the privileges of the shore... and they shall be secure in their rights to the use and enjoyment of the natural resources of the state with due

regard for the preservation of their values... and to adopt all means necessary and proper by law to protect the natural environment of the people of the state..." The EAB is bound by law to protect the states' resources. We appeal to your board to uphold this Permit ,and the "Determination on Remand".

"Final Report and Recommendations--Lieutenant Governor's Task Force on Rivers" Feb., 1990 Roger Begin Lieutenant Governor & W. Edward Wood, Chairman p. 4 " the subcommittee finds that next to Narragansett Bay and coastal resources, rivers are R.I.'s most significant natural resource" . RI has 1,498 miles of rivers.

p29 "to encourage R.I. cities and towns to establish local initiatives to ensure protection of surface and ground water resources" .

In 1987, the prestigious President's Commission on American Outdoors recommended: "Each state should perfect a comprehensive statewide rivers' protection system.

The Kickemuit Watershed Action Plan 2003 states that "the Kickemuit River is designated as Class A and is a special Resource Protection Water Body. Class SA waters are designated for shellfish harvesting for direct human consumption, primary and secondary contact recreational activities, and fish and wildlife habitat. It is

recommended to develop and implement specific actions that focus on restoring and preserving the Kickemuit Watershed." (p.22)

The EPA's implementing of the Brayton Point Permit will help achieve a healthier Kickemuit River.

The Warren Harbor Management Plan "to recognize the importance both historically and economically, of the State's shellfish and fishing industries and resources, and take appropriate measures to ensure their protection, revitalization, and continued viability." The EPA's permit helps with that goal. Accept the "Determination on Remand", And activate the Permit for BPPP.

From the R.I. Rivers' Council 2003 report: " Rhode Island's rivers and their watersheds are state treasures. supporting our economy by providing water supply, recreational opportunities, open space, and cultural, historic, and scenic landscapes... it is a River State with 1,498 miles of rivers and streams..." throughout R.I., grassroots watershed organizations ,of which the Kickemuit River Council is one, provide leadership for the development and protection of river and watershed resources..." As a member of the R.I. Rivers' Council that is KRC's duty and right.

The Warren Comprehensive Plan states, "The Kickemuit River is an

asset to the community for its recreation and natural value.

Therefore, one of the goals of the Warren Comprehensive Plan is to preserve and protect the Kickemuit River... to this end, it is recommended that the area surrounding the Kickemuit River... be utilized in such a manner as to prohibit any land use which would cause degradation... of the Kickemuit River."

Brayton Point Power Plant causes a degradation.

Even the R.I. Constitution itself addresses the issue of our right to clean water. We look to the EPA Appeals Board to accept Region 1's "Determination on Remand" , enforce the Permit and support the States in their rights.

R.I. and Massachusetts both recognize that they need to protect fish.

See R.I. Col. Act of 1735; R.I. Revised Pub. Laws, p. 490 (1798);

.Mass. Col. Act of 1743 Mass. Act of 2-22-1792.

Conclusion

The Kickemuit River Council supports the EPA in their permitting of Brayton Point Power Station. We request that the Environmental Appeals Board supports the Region 1's EPA in the NPDES permitting of Brayton Point Power Station. We urge the EAB to accept EPA's "Determination on Demand". We recommend it.

We look to the Environmental Appeals Board for protection and help.

"The Kickemuit River cannot speak for itself. It needs loud voices from those who know it, love it, and want to save it." (P.J. 1969)

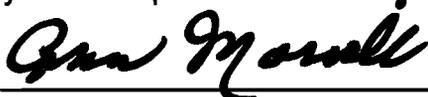
We, the Kickemuit River Council, ask you, the Environmental Appeals Board to be one of the voices.

As the proverb, on a poster in the R.I. Dept. of Administration says:

"A civilization flourishes when people plant trees under whose shade they will never sit." The Kickemuit River Council contends that the United States will flourish when those who will never fish, swim, blue crab, quahog, or live on the Kickemuit River or Mt. Hope Bay protect the Kickemuit River, the three other Massachusetts' rivers--the Cole, the Lees, and the Taunton Rivers, plus, the Sakonnet River, (south of the Brayton Point Power Plant,) Mt. Hope Bay, and, ultimately, Narragansett Bay, from the ravages of Brayton Point Power Plant.

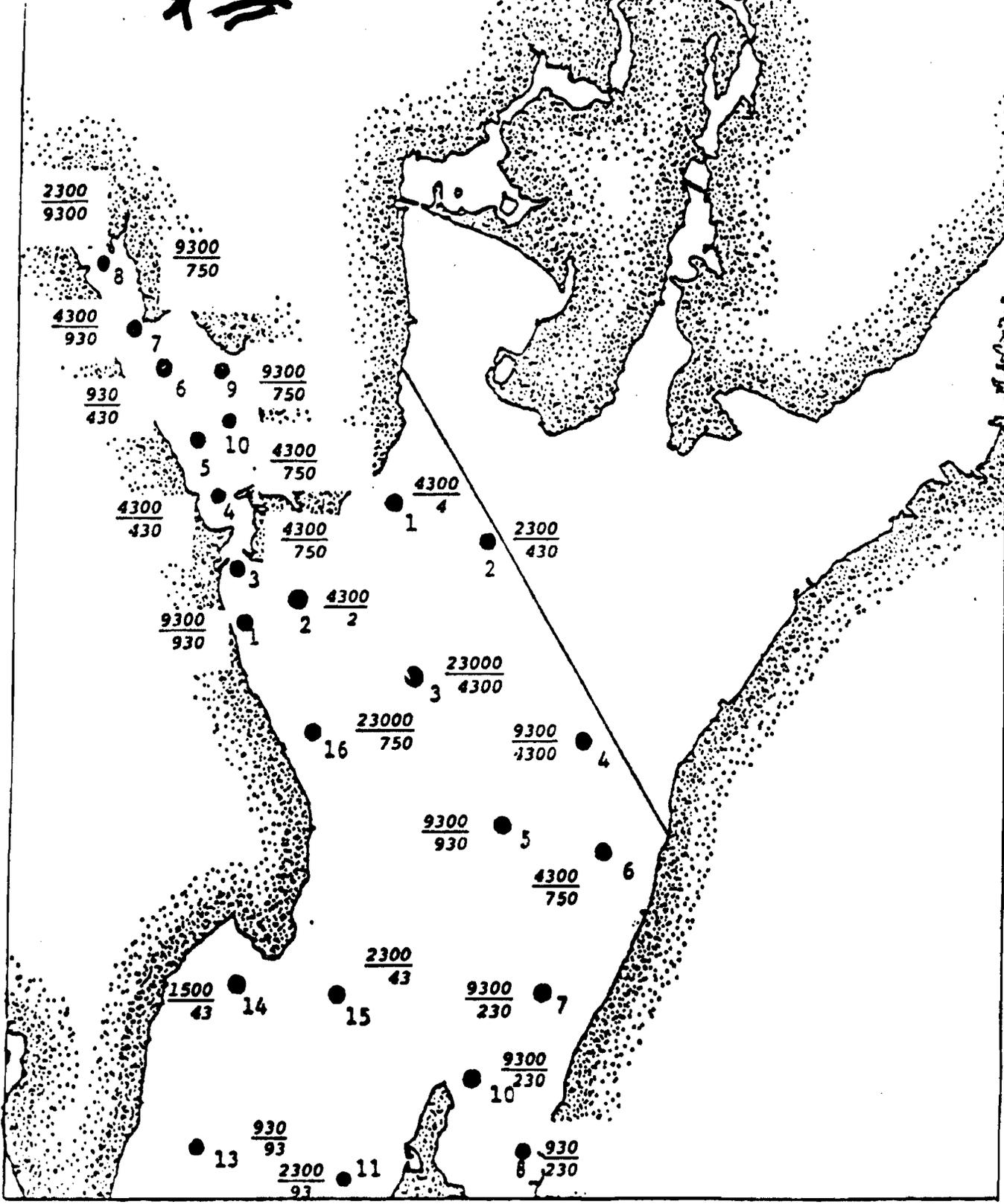
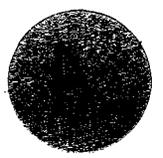
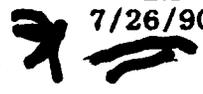
We look to you, the Environmental Appeals Board, for help. Please Accept this "Determination on Remand " from Region 1's EPA and activate the NPDES Permit # MA0003654.

Respectfully submitted,
Kickemuit River Council
By its Vicepresident and K.R. Project Volunteer Coordinator



Ann Morrill 90 Dexterdale Rd., Prov., RI 02906 Tel.# 1-401-274-6927
annmorrill@verizon.net Feb. 18, 2007

CHART A. ROUTINE BACTERIOLOGICAL AMBIENT WATER MONITORING RESULTS of MOUNT HOPE BAY and the KICKAMUIT RIVER for 7/26/90



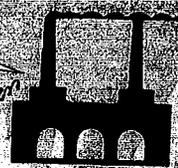
R.I. DEM's Ambient Water Test
 Station 1-10 Kickemuit River

Sta. #	Date	TotColi	Fecal	Rain/Dry	Rain	Days	Tide	Wind	Season
					Amt	After			
1	02/25/02		4	D	0.47	4	E	S/10	
2	02/25/02		2	D	0.47	4	E	S/10	
3	02/25/02		9	D	0.47	4	E	S/10	
4	02/25/02		2	D	0.47	4	E	S/10	
5	02/25/02		4	D	0.47	4	E	S/10	
6	02/25/02		2	D	0.47	4	E	S/10	
7	02/25/02		2	D	0.47	4	E	S/10	
8	02/25/02		4	D	0.47	4	E	S/10	
9	02/25/02		2	D	0.47	4	E	S/10	
10	02/25/02		2	D	0.47	4	E	S/10	
1	04/10/02		4	D	1.11	9	E	NW/10	
2	04/10/02		4	D	1.11	9	E	NW/10	
3	04/10/02		9	D	1.11	9	E	NW/10	
4	04/10/02		23	D	1.11	9	E	NW/10	
5	04/10/02		23	D	1.11	9	E	NW/10	
6	04/10/02		7	D	1.11	9	E	NW/10	
7	04/10/02		9	D	1.11	9	E	NW/10	
8	04/10/02		21	D	1.11	9	E	NW/10	
9	04/10/02		2	D	1.11	9	E	NW/10	
10	04/10/02		4	D	1.11	9	E	NW/10	
1	05/31/02		2	D	1.50	13	F	SW/5	
2	05/31/02		4	D	1.50	13	F	SW/5	
3	05/31/02		2	D	1.50	13	F	SW/5	
4	05/31/02		2	D	1.50	13	F	SW/5	
5	05/31/02		2	D	1.50	13	F	SW/5	
6	05/31/02		23	D	1.50	13	F	SW/5	
7	05/31/02		2	D	1.50	13	F	SW/5	
8	05/31/02		4	D	1.50	13	F	SW/5	70F
9	05/31/02		2	D	1.50	13	F	SW/5	
10	05/31/02		2	D	1.50	13	F	SW/5	
1	06/26/02		2	D	0.09	4	H	SW/5	
2	06/26/02		4	D	0.09	4	H	SW/5	
3	06/26/02		3	D	0.09	4	H	SW/5	
4	06/26/02		2	D	0.09	4	H	SW/5	
5	06/26/02		9	D	0.09	4	H	SW/5	72F
6	06/26/02		4	D	0.09	4	H	SW/5	
7	06/26/02		2	D	0.09	4	H	SW/5	
8	06/26/02		9	D	0.09	4	H	SW/5	
9	06/26/02		2	D	0.09	4	H	SW/5	
10	06/26/02		2	D	0.09	4	H	SW/5	
1	07/01/02		2	D	0.07	2	H	SW/5	
2	07/01/02		2	D	0.07	2	H	SW/5	
3	07/01/02		4	D	0.07	2	H	SW/5	
4	07/01/02		2	D	0.07	2	H	SW/5	
5	07/01/02		2	D	0.07	2	H	SW/5	
6	07/01/02		2	D	0.07	2	H	SW/5	
7	07/01/02		2	D	0.07	2	H	SW/5	
8	07/01/02		2	D	0.07	2	H	SW/5	76F
9	07/01/02		2	D	0.07	2	H	SW/5	

Sta. #	Date	TotColi	Fecal	Rain/Dry	Rain Amt	Days After	Tide	Wind	Season
10	07/01/02		2	D	0.07	2	H	SW/5	
1	08/02/02		2	D	0.36	5	F	S/5	
2	08/02/02		2	D	0.36	5	F	S/5	
3	08/02/02		2	D	0.36	5	F	S/5	
4	08/02/02		2	D	0.36	5	F	S/5	80F
5	08/02/02		2	D	0.36	5	F	S/5	
6	08/02/02		2	D	0.36	5	F	S/5	
7	08/02/02		2	D	0.36	5	F	S/5	
8	08/02/02		2	D	0.36	5	F	S/5	
9	08/02/02		2	D	0.36	5	F	S/5	
10	08/02/02		2	D	0.36	5	F	S/5	
1	08/09/02		2	D	0.20	7	E	N/10	
2	08/09/02		2	D	0.20	7	E	N/10	
3	08/09/02		2	D	0.20	7	E	N/10	
4	08/09/02		2	D	0.20	7	E	N/10	74F
5	08/09/02		2	D	0.20	7	E	N/10	
6	08/09/02		2	D	0.20	7	E	N/10	
7	08/09/02		2	D	0.20	7	E	N/10	
8	08/09/02		4	D	0.20	7	E	N/10	
9	08/09/02		2	D	0.20	7	E	N/10	
10	08/09/02		2	D	0.20	7	E	N/10	
1	08/28/02		2	D	0.14	5	H	N/10	
2	08/28/02		2	D	0.14	5	H	N/10	
3	08/28/02		2	D	0.14	5	H	N/10	
4	08/28/02		2	D	0.14	5	H	N/10	
5	08/28/02		23	D	0.14	5	H	N/10	
6	08/28/02		2	D	0.14	5	H	N/10	72F
7	08/28/02		2	D	0.14	5	H	N/10	
8	08/28/02		2	D	0.14	5	H	N/10	
9	08/28/02		2	D	0.14	5	H	N/10	
10	08/28/02		2	D	0.14	5	H	N/10	71F
1	10/07/02		2	D	1.00	10	H	S/15	
2	10/07/02		2	D	1.00	10	H	S/15	
3	10/07/02		2	D	1.00	10	H	S/15	
4	10/07/02		2	D	1.00	10	H	S/15	
5	10/07/02		2	D	1.00	10	H	S/15	
6	10/07/02		2	D	1.00	10	H	S/15	
7	10/07/02		4	D	1.00	10	H	S/15	
8	10/07/02		4	D	1.00	10	H	S/15	
9	10/07/02		2	D	1.00	10	H	S/15	
10	10/07/02		2	D	1.00	10	H	S/15	
1	10/24/02		2	D	0.20	1	H	N/10	
2	10/24/02		4	D	0.20	1	H	N/10	
3	10/24/02		2	D	0.20	1	H	N/10	
4	10/24/02		2	D	0.20	1	H	N/10	
5	10/24/02		2	D	0.20	1	H	N/10	
6	10/24/02		2	D	0.20	1	H	N/10	
7	10/24/02		4	D	0.20	1	H	N/10	
8	10/24/02		7	D	0.20	1	H	N/10	
9	10/24/02		2	D	0.20	1	H	N/10	

Sta. #	Date	TotColi	Fecal	Rain/Dry	Rain Amt	Days After	Tide	Wind	Season
10	10/24/02		2	D	0.20	1	H	N/10	
1	12/09/02		23	D	0.73	17	H	NW/10	
2	12/09/02		23	D	0.73	17	H	NW/10	
3	12/09/02		23	D	0.73	17	H	NW/10	
4	12/09/02		4	D	0.73	17	H	NW/10	
5	12/09/02		4	D	0.73	17	H	NW/10	
6	12/09/02		2	D	0.73	17	H	NW/10	
7	12/09/02		4	D	0.73	17	H	NW/10	
8	12/09/02		9	D	0.73	17	H	NW/10	
9	12/09/02		9	D	0.73	17	H	NW/10	
10	12/09/02		11	D	0.73	17	H	NW/10	

**Brayton Point
Power Station,
Somerset, MA.**



Providence E. Providence

Warwick

R.I. Warwick
R.I. Warwick

Bristol

FALL RIVER MA

Prudence Island

Tiverton

PORTSMOUTH
7.5 MILES

North Kingstown

JAMESTOWN
15.5 MILES

Little Compton

MIDDLETOWN
13 MILES

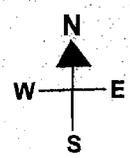
Sakonnet

NEWPORT
15 MILES

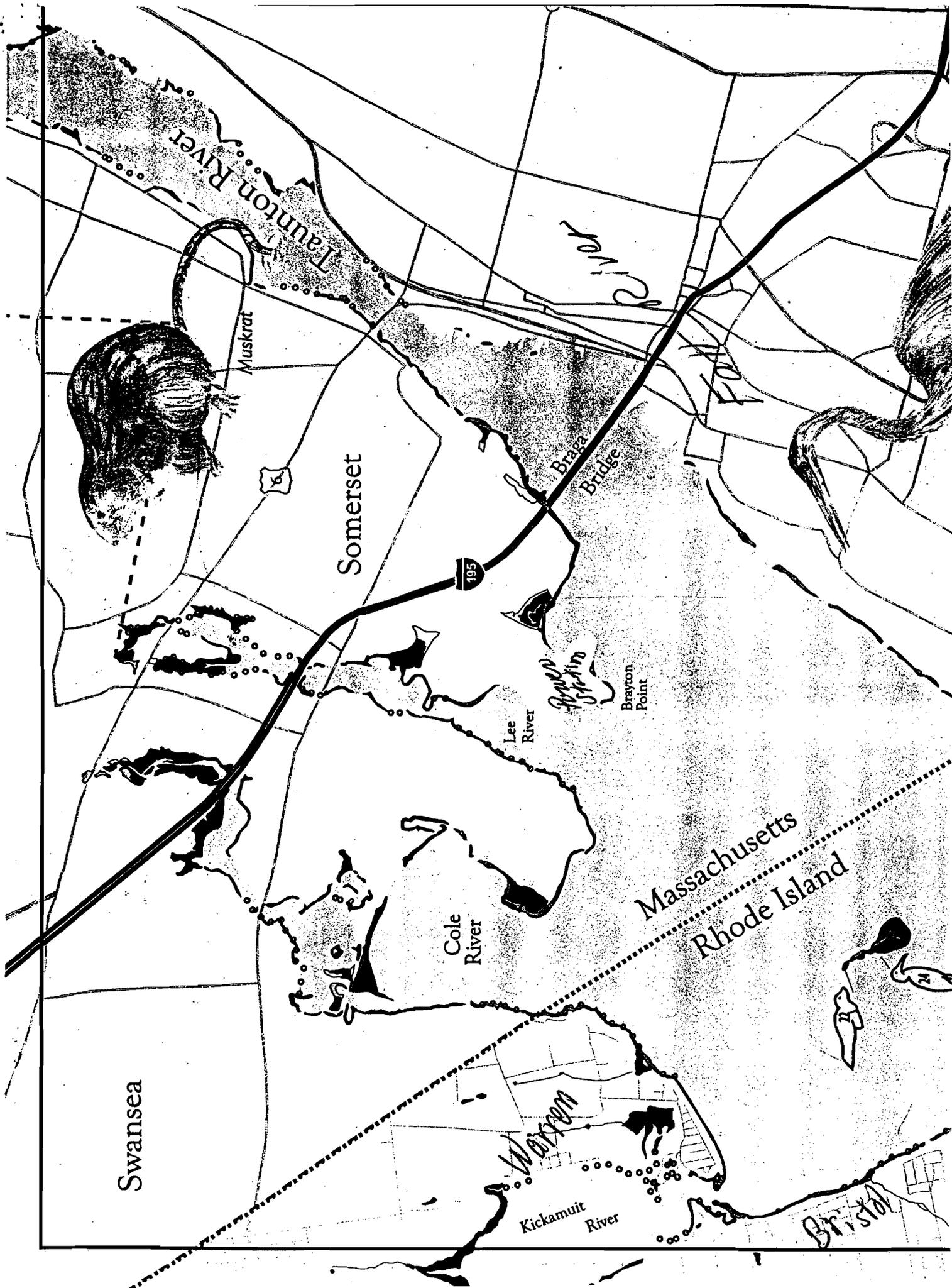
Narragansett

Twenty mile radius

Thirty mile radius



Range of Effects of Brayton Pt. Power Station



Swansea

Somerset

Taunton River

Muskrat



195

Braga Bridge

Lee River

Brayton Point

Cole River

Massachusetts

Rhode Island

Weymouth

Kickamuit River

Bristol