

**Town of Rockland, NPDES Permit No.: MA0101923 - Permit Modification  
Response to Public Comments**

On December 26, 2006, the United States Environmental Protection Agency (“EPA”) and the Massachusetts Department of Environmental Protection (“MassDEP”) (together, the “Agencies”) released for public comment a draft permit modification for the Rockland Wastewater Treatment Facility (“Permittee” or “Town”). The draft modification modifies the permit issued January 26, 2006. The draft permit modification was subject to a public comment period from December 26, 2006 to January 24, 2007. The Response to Comments below encompasses written comments submitted to EPA and MassDEP during the public comment period.

Comments were received from the Town of Rockland Board of Sewer Commissioners in a letter dated January 22, 2007; the North and South Rivers Watershed Association (NSRWA) in a letter dated December 28, 2006; and the Riverways Program, MA Department of Fish and Game in a letter dated January 23, 2007.

**Rockland Board of Sewer Commissioners**

**Comment No. 1:** In summary, the Board of Sewer Commissioners takes exception to the proposed changes in the Compliance Schedules contained in Part I, Section F of the Draft 2006 Modification NO.1. The reasons for this are described herein.

Statement of Basis, Page 3, third paragraph, second sentence, the Town takes exception to the statement, "Absent the CWMP process, a shorter compliance schedule is appropriate, and the Town has confirmed that the shortened schedule in the proposed modification is achievable." A shorter compliance schedule is not appropriate with or without addressing the needs by means of a Comprehensive Wastewater Management Plan (CWMP). It is correct that the town has decided to postpone preparation of a CWMP and to perform more specific studies targeted at improvements necessary to achieve the new permit limits. Any study or construction contract that may contain facilities to meet the new permit limits would be considered by most consultants and reviewing agencies as a major upgrade. To meet the new phosphorus limits alone may require a filtration step which will necessitate a pump station to feed the process as well as a spent wastewater tank. These facilities are considered a major upgrade. Minimum durations for study, design, and construction are noted further below in the comments listed under the 2006 Modification No.1.

See below recommended changes proposed by the Rockland Board of Sewer Commissioners:

1. Page 14, under Section F. Compliance Schedules, first paragraph, first line, CHANGE the date from "April 1, 2010" to "July 1, 2011" for the reasons stated below in comment Nos. 2, 3 and 4.

2. Page 15, item 3.a, first line, CHANGE the date from "April 30, 2008" to "July 31, 2008". The proposed date of April 30, 2008 is not reasonable considering it only allows 3 months from the submission date of the Phosphorus Removal Study Report on January 31, 2008. Three months to submit a final feasibility report will not allow sufficient time for the preparation of the draft report plus the review period for the Town and regulatory agencies and the public, plus the time required to finalize the report. Note under the current language in the permit, the Town is allowed 6 months from the submission date of the Phosphorus Removal Study Report, which was already too tight, but doable. Therefore, we propose NO CHANGE to the six (6) months currently stated in the permit from the submission date of the Phosphorus Removal Study Report, which results in a submission date for the plan to achieve the final limits of July 31, 2008.

3. Page 15, item 3.b, first line, CHANGE the date from "March 31, 2009" to "June 30, 2009". The additional 3 months requested above in comment NO.2 should be added to the proposed date of March 31, 2009 to arrive at June 30, 2009. The eleven month design period is tight considering the long review periods generally found in dealing with the regulatory agencies.

4. Page 15, item 3.c., first line, CHANGE the date from "April 1, 2010" to "July 1, 2011". The twelve (12) months proposed by EPA from the completion of the design in item 3.b. is not reasonable because it does not provide the required time to conduct the bidding and award period, which is generally a minimum of four (4) months, plus a reasonable construction period for a medium size upgrade, which will require a minimum of eighteen (18) months followed by a minimum two (2) month start-up period before reaching compliance. Therefore, the 12 months proposed by EPA should be a minimum of 24 months to cover the bidding phase, construction phase, and start-up phase. Therefore, summing the additional 3 months requested in comment No.2 above, to the additional 12 months for this item results in a total 15 month change from April 1, 2010 to July 1, 2011.

**Response No. 1:** EPA acknowledges that the Town no longer agrees that the shortened schedule in the proposed modification is achievable. However, on October 26, 2006, the Rockland Board of Sewer Commissioners did concur with a draft settlement agreement which included the same compliance schedule that appeared in the public noticed draft permit modification.

In a phone conversation with Brian Pitt (EPA) on October 27, 2006, John F. Loughlin, Superintendent of the Rockland Sewer Department, indicated that the Town's consultant had concerns about the schedule, but the Town would nonetheless accept the schedule as it appeared in the draft settlement agreement. Mr. Loughlin and Mr. Pitt discussed the conditions under which the Town could request and EPA could grant a modification of the schedule pursuant to regulations found at 40 C.F.R. § 122.62, should the Town, despite good faith efforts, fail to achieve the schedule. Mr. Loughlin sent an e-mail to Mr. Pitt on October 30, 2006 stating that the Board agreed to the settlement terms.

In a letter addressed to EPA dated December 1, 2006, Mr. Loughlin reiterated the history of the settlement negotiations. The letter addressed a preliminary draft of the modification (which again included the same compliance schedule). His comments were confined to the flow reporting requirements. He stated that based on changes to the draft statement of basis and draft permit modification, the Board [of Sewer Commissioners] voted not to accept the two documents.

We have prepared a short summary of the evolution of the compliance schedule. Winter ammonia and summer total phosphorus limits were presented first to the Town in a pre-draft permit (for technical review) and fact sheet on December 2, 2004. The current permit was issued January 26, 2006, to become effective March 27, 2006 and contained a 5 year schedule for achieving the total phosphorus limits and the winter ammonia limits. The schedule was based on the Town's stated plan to prepare a Comprehensive Wastewater Management Plan (CWMP). A CWMP would include a thorough evaluation of the Town's current and future wastewater infrastructure needs, so an extended schedule for planning and for state review and approvals was anticipated. If the permit had become effective 60 days after the date of signature, the compliance date would have been March 27, 2011.

When that permit was appealed by the North and South River Watershed Association (NSRWA), the entire permit was initially stayed. The Regional Administrator notified the Town by letter dated June 6, 2006 that the new effective date of the uncontested conditions was July 1, 2006 and the expiration date of the current permit is June 30, 2011. The NSRWA appealed the compliance schedule on the basis that it was longer than necessary, so it was a contested condition which remained stayed.

As discussed in the statement of basis for this permit modification, during settlement negotiations the Town revealed that it would not be completing a CWMP, but would instead focus its studies mainly on facilities necessary to comply with the new, more stringent winter ammonia and total phosphorus limits. A shorter schedule was therefore proposed by EPA and accepted by the Town and NSRWA. The schedule proposed in the draft modification would allow approximately 3 years from the effective date of the modification for the Town to achieve compliance with the total phosphorus and winter ammonia limits should the Town determine that additional facilities are necessary.

The Town has now requested that the final compliance date be extended from April 1, 2010 (draft modification) to July 1, 2011, which would make the new end date three months longer than the schedule originally included in the permit (which was based on the Town's now abandoned plan to do a CWMP). The final compliance date requested by the Town would be one day past the new June 30, 2011 permit expiration date, and 15 months past the final compliance date in the draft permit modification.

In support of the need for a schedule extension, the Town provides two specific comments on the schedule. The first is that the planning period is too short because the date for submitting the facilities plan is only three months after the date for submitting the Phosphorus Study Report. This reasoning is only valid if it is assumed that no

planning for facilities will be conducted until after the phosphorus and ammonia studies are completed. As was discussed with the Town, EPA expects that facilities planning will proceed on a parallel track with the studies. There are a limited number of cost-effective options for achieving the new limits should the existing treatment plant be unable to meet the new limits, and the Town and its consultant should be able to develop these options while conducting the studies. Simply, the schedule presented by the Town has each milestone occurring in sequence, while EPA and MassDEP believe much of the work can occur simultaneously, allowing more rapid progress. In the agencies' experience, it is not unusual for towns to conduct treatment studies and facilities planning simultaneously.

The Town has also raised the issue that the schedule does not provide sufficient time for the Town to bid and then construct the project. The Town has requested that 12 months be added to the construction schedule: four months for bidding the project, an additional six months for construction, and two months for start-up. EPA and MassDEP do not believe that such an extension is warranted. The design of any necessary facilities should be relatively straightforward, and by anticipating the most effective treatment options, the Town can entertain preliminary bids from vendors. These bids can be refined when the final specifications are available, thus narrowing the field of bidders and shortening the bidding process. The use of "package" systems may also greatly reduce construction time.

EPA and MassDEP recognize this is an ambitious compliance schedule. Title 314 of the C.M.R. § 310(10) states that "Any such schedule shall require compliance as soon as possible..." and federal regulations found at 40 C.F.R. § 122.47 require that schedules of compliance "shall require compliance as soon as possible..." EPA and MassDEP believe that a three year schedule to plan, design, and construct any necessary facilities is reasonable and have retained the schedule in the final permit modification.

### **Comments No. 2 and 3**

**The North and South Rivers Watershed Association (NSRWA)** staff have reviewed the draft NPDES Permit Modification for the Rockland Wastewater Treatment Plant (WWTP) which discharges to French Stream. This stream is a headwater tributary to the North River watershed. French Stream is listed as an impaired water and is listed for unknown toxicity, nutrients, organic enrichment/low DO, and pathogens.

There have been important additions to the draft modified permit which will provide increased protection to the receiving waters of French Stream. The NSRWA filed an appeal to the EPA Environmental Appeals Board (EAB) of the original Final Permit on March 1, 2006. Since filing the appeal, the NSRWA and EPA, with the Town of Rockland, have been working towards a settlement agreement. A settlement to modify certain conditions of the permit was reached between the NSRWA and EPA on October 20, 2006. The Rockland Board of Sewer Commissioners indicated its assent to the terms of the settlement by email to EPA on October 30, 2006. The Board of Sewer

Commissioners subsequently withdrew their assent to the settlement on December 1, 2006 due to flow reporting requirements.

The NSRWA would like to offer the following comments in support of the Draft Modified Permit.

**Flow Reporting Requirements:** The Final Permit requires that the WWTP report its monthly average flow, annual average flow and maximum daily flow. A violation occurs when the monthly average flow (2.5 MGD) is exceeded. The NSRWA contended in its appeal that the Infiltration and Inflow issues that the Rockland WWTP experiences have led to violations of the NPDES permit. Inflow and Infiltration is problematic at the Plant, and has been since the early 1990's. In July of 1995 the Permittee was issued an Administrative Consent Order (ACO) by regulatory authorities which required a town-wide I/I reduction plan. Between 1995 and 2005 little progress had been made to actually reduce I/I other than study the problem. The EPA issued an Administrative Order on September 28, 2006 for flow violations of the permit between January 1, 2003 and December 31, 2005. The Permittee violated the 2.5 MGD monthly average flow limit contained in its NPDES Permit 16 out of 36 months. In some cases, this resulted in partially treated sewage being discharged to French Stream. The draft Final Permit had allowed for an annual rolling average flow limit, which would mask high flows experienced in any one month. The average monthly flow limit is much more applicable and consistent with other NPDES permits. In order to track progress on the I/I removal to the system the monthly average flow limit is much more appropriate and the NSRWA is fully supportive of this permit modification. As for the annual average and maximum daily flow reporting requirements, they are not enforceable limits but rather provided for information.

**Compliance Schedule:** The NSRWA in its appeal contested that the phosphorus limits were neither defensible in their concentrations nor in the timeline for compliance with the Clean Water Act. The original permit for compliance with the new phosphorus limits had no deadline for compliance. The modified permit provides a schedule for meeting the new phosphorus standards with milestones reported to regulatory authorities. The date for compliance with the new phosphorus standard is April 1, 2010. Again, the NSRWA is fully supportive of the addition of a real compliance schedule with dates and milestones that the town must comply with rather than the previous open-ended requirement for meeting the new phosphorus limits.

That being said, we still believe that the effluent limits for phosphorus are not necessarily protective enough for French Stream to meet water quality standards. We also are supportive of the additional language added to the permit that requires that any upgrades to meet the new phosphorus limits do not preclude future requirements for lower phosphorus effluent limits.

We are also supportive of the change from May 1 – September 30 to April 1 – October 31, as we noted in our Comments on the original proposal that the growing season should

be extend to represent when phosphorus is being taken up which is April through October.

**Staff at the Riverways Programs, MA Department of Fish and Game**, have reviewed the permit modification for the town of Rockland's Wastewater Treatment Plant discharging into French Stream. We appreciate the opportunity to review the changes made to the permit since the final was issued in January of 2006. There have been several key alterations to the permit that will result in better protection of the receiving water.

This facility has experienced several sewage surcharge events caused by a long recognized infiltration and inflow problem. The community has struggled to remediate this issue under a MA Department of Environmental Protection consent order. We firmly believe the flow monitoring requirements and limitation in the Rockland permit will enhance the efforts to address flows and infiltration/inflow problems. Maintaining an actual monthly average limit will prove to be a valuable tool to mark progress on reducing surges in flow to the plant associated with wet weather events. The monthly limitation provides a truer measure of the advancements being made to bring influent flows than an annual averaging method to calculate a monthly average. It is our belief the monthly average will better facilitate the plant reaching a reasonable influent level during wet weather/melt water events thus enabling the facility to treat flows effectively. Also informative is the reporting of daily maximum flow volumes which provide even more detailed insight into the magnitude of infiltration/inflow related to storm events and a welcome addition to all of the Massachusetts municipal NPDES permits.

The modified permit has several important changes to the implementation schedules and milestones. We applaud the greater specificity. This facility discharges into a small waterway, one dominated by the effluent flow a majority of the year. Meeting the new limitations in the permit as soon as is practical will help this impaired waterway. While it is a bit unfortunate the community is not opting to undertake a CWMP or some equivalent water resource management plan, the accelerated compliance schedule for meeting the new phosphorus and ammonia limitations is a very welcome amendment to the permit. Of particular note is the judicious addition of the *technology scaling* provision to the permit.

### **Response to No(s). 2 and 3**

Comments received from both the North and South Rivers Watershed Association and the Riverways Program were supportive of the permit changes proposed in the draft permit modification. Neither set of comments requested changes or questioned the contents of the draft modification and therefore, a further response from EPA and MassDEP is not required.