AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Clean Water Act as amended, (33 U.S.C. §§1251 et seq.; the "CWA"), and the Massachusetts Clean Waters Act, as amended, (M.G.L. Chap. 21, §§26-53),

Town of Fairhaven

is authorized to discharge from the facility located at

Fairhaven Wastewater Pollution Control Facility
Arsene Street
Fairhaven, MA 02719

to receiving water named

Acushnet River (New Bedford Inner Harbor; Buzzards Bay Watershed; State Code 95-42)

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on **(See ** below)**

This permit and the authorization to discharge expire at midnight, five (5) years from the effective date.

This permit supersedes the permit issued on March 4, 2003.

This permit consists of 13 pages in Part I including effluent limitations and monitoring requirements, Part II including Standard Conditions and Definitions, and Attachments A (Toxicity Protocol) and B (Summary of Report Submittals).

Signed this day of

Director Office of Ecosystem Protection Environmental Protection Agency Boston, MA	Director Division of Watershed Management Department of Environmental Protection Commonwealth of Massachusetts Boston, MA

** This permit will become effective on the date of signature if no comments are received during public notice. If comments are received during public notice, this permit will become effective no sooner than 30 days after signature.

PART I

A.1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge treated effluent from outfall serial number **001** to the Acushnet River. Such discharges shall be limited and monitored as specified below.

EFFLUENT CHARACTERISTIC	**EFFLUENT LIMITS**					**MONITORING REQUIREMENTS [3]**	
PARAMETER	**AVERAGE MONTHLY**	**AVERAGE WEEKLY**	**AVERAGE MONTHLY**	**AVERAGE WEEKLY**	**MAXIMUM DAILY**	**MEASUREMENT FREQUENCY**	**SAMPLE[3] TYPE**
FLOW[2]	********	********	5.0 MGD	********	Report MGD	CONTINUOUS	RECORDER
FLOW[2]	********	********	Report MGD	********	********	CONTINUOUS	RECORDER
BOD_5 [4]	1252 lbs/Day 569 kg/Day	1878 lbs/Day 854 kg/Day	30 mg/l	45 mg/l	Report mg/l	3/WEEK	24-HOUR COMPOSITE [5]
TSS [4]	1252 lbs/Day 569 kg/Day	1878 lbs/Day 854 kg/Day	30 mg/l	45 mg/l	Report mg/l	3/WEEK	24-HOUR COMPOSITE [5]
pH RANGE[1]	6.5 - 8.5 SU (SEE PERMIT PAGE 5 OF 13, PARAGRAPH I.A.1.b.)					1/DAY	GRAB
FECAL COLIFORM[1,6]	********	**********	88 cfu/100 ml	********	260 cfu/100ml	2/WEEK	GRAB
ENTEROCOCCI [6]	********	**********	35 cfu/100 ml	********	276 cfu/100ml	2/Week	GRAB
TOTAL NITROGEN (TKN + NITRATE + NITRITE) [4]	125 lbs/day 57 kg/day	**********	Report mg/l	**********	Report mg/l	3/WEEK	24-HOUR COMPOSITE [5]
WHOLE EFFLUENT TOXICITY [7, 8, 9, 10]	Acute $LC_{50} \geq 100\%$ Chronic C-NOEC $\geq 12.2\%$					2/YEAR	24-HOUR COMPOSITE [5]

Sampling Location: All effluent sampling shall be conducted at the outlet of the ultraviolet disinfection system.

Footnotes:

1. Required for State Certification.

2. Report annual average, monthly average, and the maximum daily flow. The limit is an annual average, which shall be reported as a rolling average. The value will be calculated as the arithmetic mean of the monthly average flow for the reporting month and the monthly average flows of the previous eleven months.

3. All required effluent samples shall be collected at the point specified on page 2. Any change in sampling location must be reviewed and approved in writing by EPA and MassDEP.

   A routine sampling program shall be developed in which samples are taken at the same location, same time and same days of the week each month. Occasional deviations from the routine sampling program are allowed, but the reason for the deviation shall be documented in correspondence appended to the applicable discharge monitoring report.

   All samples shall be tested using the analytical methods found in 40 CFR §136, or alternative methods approved by EPA in accordance with the procedures in 40 CFR §136.

4. Sampling required for influent and effluent.

5. 24-hour composite samples will consist of at least twenty four (24) grab samples taken during one consecutive 24 hour period, either collected at equal intervals and combined proportional to flow or continuously collected proportionally to flow.

6. The monthly average limits for fecal coliform and enterococci are expressed as a geometric mean.

7. The permittee shall conduct chronic (and modified acute) toxicity tests two times per year. The chronic test may be used to calculate the acute LC_{50} at the 48 hour exposure interval. The permittee shall test the Inland silverside and Sea urchin. Toxicity test samples shall be collected during months of March and September. The test results shall be submitted by the last day of the month following the completion of the test. The results are due April 30 and October 31 respectively. The tests must be performed in accordance with test procedures and protocols specified in **Attachment A** of this permit.

Test Dates	Submit Results By:	Test Species	Acute Limit LC_{50}	Chronic Limit C-NOEC
March and September	April 30 and October 31	Inland silverside and Sea urchin	≥ 100%	≥ 12.2%

After submitting **two years** and a **minimum** of **four** consecutive sets of WET test results, all of which demonstrate compliance with the WET permit limits, the permittee may request a reduction in the WET testing requirements. The permittee is required to continue testing at the frequency specified in the permit until notice is received by certified mail from the EPA that the WET testing requirement has been changed.

8. The LC_{50} is the concentration of effluent which causes mortality to 50% of the test organisms. Therefore, a 100% limit means that a sample of 100% effluent (no dilution) shall cause no more than a 50% mortality rate.

9. C-NOEC (chronic-no observed effect concentration) is defined as the highest concentration of toxicant or effluent to which organisms are exposed in a life cycle or partial life cycle test which causes no adverse effect on growth, survival, or reproduction at a specific time of observation as determined from hypothesis testing where the test results exhibit a linear dose-response relationship. However, where the test results do not exhibit a linear dose-response relationship, the permittee must report the lowest concentration where there is no observable effect. The "12.2% or greater" limit is defined as a sample which is composed of 12.2% (or greater) effluent, the remainder being dilution water.

10. The permittee will submit a map or GIS coordinates of the receiving water sampling point with the first toxicity test under this permit If toxicity test(s) using receiving water as diluent show the receiving water to be toxic or unreliable, the permittee shall either follow procedures outlined in **Attachment A (Toxicity Test Procedure and Protocol) Section IV., DILUTION WATER** in order to obtain an individual approval for use of an alternate dilution water, or the permittee shall follow the Self-Implementing Alternative Dilution Water Guidance which may be used to obtain automatic approval of an alternate dilution water, including the appropriate species for use with that water. This guidance is found in Attachment G of NPDES Program Instructions for the Discharge Monitoring Report Forms (DMRs) which is sent to all permittees with their annual set of DMRs and

may also be found on the EPA, Region I web site at http://www.epa.gov/region01/enforcementandassistance/dmr.html. If this guidance is revoked, the permittee shall revert to obtaining individual approval as outlined in **Attachment A**. Any modification or revocation to this guidance will be transmitted to the permittees as part of the annual DMR instruction package. However, at any time, the permittee may choose to contact EPA-New England directly using the approach outlined in **Attachment A**.

Part I.A.1. (Continued)

a. The discharge shall not cause a violation of the water quality standards of the receiving waters.

b. The pH of the effluent shall not be less than 6.5 or greater than 8.5 at any time.

c. The discharge shall not cause objectionable discoloration of the receiving waters.

d. The effluent shall not contain a visible oil sheen, foam, or floating solids at any time.

e. The permittee's treatment facility shall maintain a minimum of 85 percent removal of both total suspended solids and biochemical oxygen demand. The percent removal shall be based on monthly average values.

f. The results of sampling for any parameter done in accordance with EPA approved methods above its required frequency must also be reported.

g. If a future TMDL for the Acushnet River is completed and approved during the term of the permit, EPA may either modify or reissue the permit as necessary to incorporate any nitrogen limits mandated by the TMDL.

2. All POTWs must provide adequate notice to the Director of the following:

a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of the Clean Water Act if it were directly discharging those pollutants; and

b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

c. For purposes of this paragraph, adequate notice shall include information on:

(1) The quantity and quality of effluent introduced into the POTW; and

(2) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

3. Prohibitions Concerning Interference and Pass Through:

a. Pollutants introduced into POTW's by a non-domestic source (user) shall not pass through the POTW or interfere with the operation or performance of the works.

4. Toxics Control

a. The permittee shall not discharge any pollutant or combination of pollutants in toxic amounts.

b. Any toxic components of the effluent shall not result in any demonstrable harm to aquatic life or violate any state or federal water quality standard which has been or may be promulgated. Upon promulgation of any such standard, this permit may be revised or amended in accordance with such standards.

5. Numerical Effluent Limitations for Toxicants

EPA or MassDEP may use the results of the toxicity tests and chemical analyses conducted pursuant to this permit, as well as national water quality criteria developed pursuant to Section 304(a)(1) of the Clean Water Act (CWA), state water quality criteria, and any other appropriate information or data, to develop numerical effluent limitations for any pollutants, including but not limited to those pollutants listed in Appendix D of 40 CFR Part 122.

B. PRETREATMENT

Within 120 days of the effective date of the permit, the permittee shall submit the results of an industrial user survey including identification of industrial users and the character and volume of pollutants contributed to the Publicly Owned Treatment Works (POTW) by the industrial users. The industrial user survey shall as a minimum include the following:

(i) Industries discharging wastes which are or may be in the future subject to local limitations or the national prohibited discharge standards found in 40 CFR Part 403.5; and

(ii) Industries discharging wastewater from processes in one or more primary industry categories (See Appendix A to 40 CFR Part 122 or Appendix C of 40 CFR Part 403).

C. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with the terms and conditions of this permit and only from the outfall listed in Part I A.1.of this permit. Discharges of wastewater from any other point sources, including sanitary sewer overflows (SSOs), are not authorized by this permit and shall be reported in accordance with Section D.1.e. (1) of the General Requirements of this permit (Twenty-four hour reporting).

Notification of SSOs to MassDEP shall be made on its SSO Reporting Form (which includes DEP Regional Office telephone numbers). The reporting form and instruction for its completion may be found on-line at http://www.mass.gov/dep/water/approvals/surffms.htm#sso.

Bypasses of treatment units are not authorized. If during peak flow there are emergency bypasses of any treatment unit, the permittee shall take hourly grab samples of the final effluent and test for fecal coliform and enterococci. Each incident shall be documented in a report that includes the monitoring results, and the date, time, duration of bypass and volume by`passed. This report shall be attached to the monthly DMR.

D. OPERATION AND MAINTENANCE OF THE SEWER SYSTEM

Operation and maintenance of the sewer system shall be in compliance with the General Requirements of Part II and the following terms and conditions:

1. Maintenance Staff

   The permittee shall provide an adequate staff to carry out the operation, maintenance, repair, and testing functions required to ensure compliance with the terms and conditions of this permit.

2. Preventative Maintenance Program

   The permittee shall maintain an ongoing preventative maintenance program to prevent overflows and bypasses caused by malfunctions or failures of the sewer system infrastructure. The program shall include an inspection program designed to identify all potential and actual unauthorized discharges.

3. Infiltration/Inflow Control Plan:

   The permittee shall update its plan to control infiltration and inflow (I/I) to the separate sewer system. The plan shall be submitted to EPA and MassDEP **within six months of the effective date of this permit** (see page 1 of this permit for the effective date) and shall describe the permittee's program for preventing infiltration/inflow related effluent limit violations, and all unauthorized discharges of wastewater, including overflows and

by-passes due to excessive infiltration/inflow.

The plan shall include:

- An ongoing program to identify and remove sources of infiltration and inflow. The program shall include the necessary funding level and the source(s) of funding.
- An inflow identification and control program that focuses on the disconnection and redirection of illegal sump pumps and roof down spouts. Priority should be given to removal of public and private inflow sources that are upstream from, and potentially contribute to, known areas of sewer system backups and/or overflows.
- Identification and prioritization of areas that will provide increased aquifer recharge as the result of reduction/elimination of infiltration and inflow to the system.
- An educational public outreach program for all aspects of I/I control, particularly private inflow.

Reporting Requirements:

A summary report of all actions taken to minimize I/I during the previous calendar year shall be submitted to EPA and MassDEP annually, **by March 31**. The summary report shall, at a minimum, include:

- A map and a description of inspection and maintenance activities conducted and corrective actions taken during the previous year.
- Expenditures for any infiltration/inflow related maintenance activities and corrective actions taken during the previous year.
- A map with areas identified for I/I-related investigation/action in the coming year.
- A calculation of the annual average I/I and the maximum month I/I for the reporting year.
- A report of any infiltration/inflow related corrective actions taken as a result of unauthorized discharges reported pursuant to 314 CMR 3.19(20) and reported pursuant to the Unauthorized Discharges section of this permit.

4. Alternate Power Source

In order to maintain compliance with the terms and conditions of this permit, the permittee shall continue to provide an alternative power source with which to sufficiently operate its treatment works (as defined at 40 CFR §122.2).

E. SLUDGE CONDITIONS

1. The permittee shall comply with all existing federal and state laws and regulations that apply to sewage sludge use and disposal practices, including EPA regulations promulgated at 40 CFR Part 503, which prescribe "Standards for the Use or Disposal of Sewage Sludge" pursuant to Section 405(d) of the CWA, 33 U.S.C. § 1345(d).

2. If both state and federal requirements apply to the permittee's sludge use and/or disposal practices, the permittee shall comply with the more stringent of the applicable requirements.

3. The requirements and technical standards of 40 CFR Part 503 apply to the following sludge use or disposal practices.

   a. Land application - the use of sewage sludge to condition or fertilize the soil

   b. Surface disposal - the placement of sewage sludge in a sludge only landfill

   c. Sewage sludge incineration in a sludge only incinerator

4. The requirements of 40 CFR Part 503 do not apply to facilities which dispose of sludge in a municipal solid waste landfill. 40 CFR § 503.4. These requirements also do not apply to facilities which do not use or dispose of sewage sludge during the life of the permit but rather treat the sludge (e.g. lagoons, reed beds), or are otherwise excluded under 40 CFR § 503.6.

5. The 40 CFR. Part 503 requirements including the following elements:

   - General requirements
   - Pollutant limitations
   - Operational Standards (pathogen reduction requirements and vector attraction reduction requirements)
   - Management practices
   - Record keeping
   - Monitoring
   - Reporting

   Which of the 40 C.F.R. Part 503 requirements apply to the permittee will depend upon the use or disposal practice followed and upon the quality of material produced by a facility. The EPA Region 1 Guidance document, "EPA Region 1 - NPDES Permit Sludge Compliance Guidance" (November 4, 1999), may be used by the permittee to

assist it in determining the applicable requirements.[1]

6. The sludge shall be monitored for pollutant concentrations (all Part 503 methods) and pathogen vector attraction reduction (land application and surface disposal) at the following frequency. This frequency is based upon the volume of sewage sludge generated at the facility in dry metric tons per year

less than 290	1/ year
290 to less than 1,500	1 /quarter
1,500 to less than 15,000	6 /year
15,000 +	1 /month

Sampling of the sewage sludge shall use the procedures detailed in 40 CFR 503.8.

7. Under 40 CFR § 503.9(r), the permittee is a "person who prepares sewage sludge" because it "is … the person who generates sewage sludge during the treatment of domestic sewage in a treatment works …." If the permittee contracts with *another* "person who prepares sewage sludge" under 40 CFR § 503.9(r) – i.e., with "a person who derives a material from sewage sludge" – for use or disposal of the sludge, then compliance with Part 503 requirements is the responsibility of the contractor engaged for that purpose. If the permittee does not engage a "person who prepares sewage sludge," as defined in 40 CFR § 503.9(r), for use or disposal, then the permittee remains responsible to ensure that the applicable requirements in Part 503 are met. 40 CFR §503.7. If the ultimate use or disposal method is land application, the permittee is responsible for providing the person receiving the sludge with notice and necessary information to comply with the requirements of 40 CFR Part 503 Subpart B.

8. The permittee shall submit an annual report containing the information specified in the 40 CFR Part 503 requirements (§ 503.18 (land application), § 503.28 (surface disposal), or § 503.48 (incineration)) by **February 19** (*see also* "EPA Region 1 - NPDES Permit Sludge Compliance Guidance"). Reports shall be submitted to the address contained in the reporting section of the permit. If the permittee engages a contractor or contractors for sludge preparation and ultimate use or disposal, the annual report need contain only the following information:

   - Name and address of contractor(s) responsible for sludge preparation, use or disposal
   - Quantity of sludge (in dry metric tons) from the POTW that is transferred to the sludge contractor(s), and the method(s) by which the contractor will prepare and use or dispose of the sewage sludge.

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1 This guidance document is available upon request from EPA Region 1 and may also be found at: http://www.epa.gov/region1/npdes/permits/generic/sludgeguidance.pdf

F. MONITORING AND REPORTING

1. **For a period of one year from the effective date of the permit**, the permittee may either submit monitoring data and other reports to EPA in hard copy form, or report electronically using NetDMR, a web-based tool that allows permittees to electronically submit discharge monitoring reports (DMRs) and other required reports via a secure internet connection. **Beginning no later than one year after the effective date of the permit**, the permittee shall begin reporting using NetDMR, unless the facility is able to demonstrate a reasonable basis that precludes the use of NetDMR for submitting all DMRs and reports. Specific requirements regarding submittal of data and reports in hard copy form and for submittal using NetDMR are described below:

a. Submittal of Reports Using NetDMR

NetDMR is accessed from: http://www.epa.gov/netdmr. Within one year of the effective date of the Permit, the permittee shall begin submitting DMRs and reports required under this permit electronically to EPA using NetDMR, unless the facility is able to demonstrate a reasonable basis, such as technical or administrative infeasibility, that precludes the use of NetDMR for submitting DMRs and reports ("opt out request").

DMRs shall be submitted electronically to EPA no later than the 15th day of the month following the completed reporting period. All reports required under the permit shall be submitted to EPA, including the MassDEP Monthly Operations and Maintenance Report, as an electronic attachment to the DMR. Once a permittee begins submitting reports using NetDMR, it will no longer be required to submit hard copies of DMRs or other reports to EPA and will no longer be required to submit hard copies of DMRs to MassDEP. However, permittees shall continue to send hard copies of reports other than DMRs (including Monthly Operation and Maintenance Reports) to MassDEP until further notice from MassDEP.

b. Submittal of NetDMR Opt Out Requests

Opt out requests must be submitted in writing to EPA for written approval at least sixty (60) days prior to the date a facility would be required under the Permit to begin using NetDMR. This demonstration shall be valid for twelve (12) months from the date of EPA approval and shall thereupon expire. At such time, DMRs and reports shall be submitted electronically to EPA unless the permittee submits a renewed opt out request and such request is approved by EPA. All opt out requests should be sent to the following addresses:

Attn: NetDMR Coordinator
U.S. Environmental Protection Agency, Water Technical Unit
5 Post Office Square, Suite 100 (OES04-4)
Boston, MA 02109-3912

And

Massachusetts Department of Environmental Protection
Surface Water Discharge Permit Program
627 Main Street, 2nd Floor
Worcester, Massachusetts 01608

c. Submittal of Reports in Hard Copy Form

Hard copy DMR submittals shall be completed and postmarked no later than the 15th day of the month following the completed reporting period. MassDEP Monthly Operation and Maintenance Reports shall be submitted as an attachment to the DMRs. Signed and dated originals of the DMRs, and all other reports required herein, shall be submitted to the appropriate State addresses and to the EPA address listed below:

U.S. Environmental Protection Agency
Water Technical Unit
5 Post Office Square, Suite 100 (OES04-4)
Boston, MA 02109-3912

The State Agency addresses are:

Massachusetts Department of Environmental Protection
Southeast Regional Office - Bureau of Resource Protection
20 Riverside Drive
Lakeville, MA 02347

And

Massachusetts Department of Environmental Protection
Surface Water Discharge Permit Program
627 Main Street, 2nd Floor
Worcester, Massachusetts 01608

Signed and dated Industrial Pretreatment Program Reports should be sent to:

U.S. Environmental Protection Agency
Office of Ecosystem Protection
5 Post Office Square, Suite 100 (OEP06-03)
Boston, MA 02109-3912
Attn. Justin Pimpare

And

Massachusetts Department of Environmental Protection
Bureau of Waste Prevention
Industrial Wastewater Program
1 Winter Street
Boston, MA 02108

G. STATE PERMIT CONDITIONS

This Discharge Permit is issued jointly by the U. S. Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MassDEP) under Federal and State law, respectively. As such, all the terms and conditions of this Permit are hereby incorporated into and constitute a discharge permit issued by the Commissioner of the MassDEP pursuant to M.G.L. Chap.21, §43.

Each Agency shall have the independent right to enforce the terms and conditions of this Permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the Agency taking such action, and shall not affect the validity or status of this Permit as issued by the other Agency, unless and until each Agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this Permit is declared, invalid, illegal or otherwise issued in violation of State law such permit shall remain in full force and effect under Federal law as an NPDES Permit issued by the U.S. Environmental Protection Agency. In the event this Permit is declared invalid, illegal or otherwise issued in violation of Federal law, this Permit shall remain in full force and effect under State law as a Permit issued by the Commonwealth of Massachusetts.

Attachment B

Summary of Required Report Submittals*

Required Report	**Date Due**	**Submitted By:**	**Submitted To: ** (see bottom of page for key)**
Discharge Monitoring Report (DMR)	Monthly, postmarked by the 15th of the month following the monitoring month (e.g. the March DMR is due by April 15th.	Town of Fairhaven	1, 2, 3
Whole Effluent Toxicity (WET)Test Report (Part I.A.1)	April 30 and October 31 of each year	Town of Fairhaven	1, 2, 3
Pretreatment: Industrial User Survey (Part I.B.b.)	Within 120 days of permit effective date	Town of Fairhaven	1, 2, 4
I/I Control Plan (Part I.D.2)	Within 6 months of permit effective date	Town of Fairhaven	1,2
I/I Annual Report (Part I.D.2)	March 31 each year	Town of Fairhaven	1,2
Annual Sludge Report (Part I.E.8.)	February 19 each year	Town of Fairhaven	1,2

*This Table is a summary of reports required to be submitted under this NPDES permit as an aid to the permittee. If there are any discrepancies between the permit and this summary, the permittee shall follow the permit requirements.

**The addresses are for the submittal of hard copies. When the permittee begins reporting using NetDMR, submittal of hard copies of many of the required reports will not be necessary. See permit conditions for details.

1. Environmental Protection Agency
   Water Technical Unit
   5 Post Office Square, Suite 100 (OES04-4)
   Boston, Massachusetts 02109-3912

2. Massachusetts Department of Environmental Protection
   Bureau of Resource Protection
   Southeast Regional Office
   20 Riverside Drive
   Lakeville, MA 02347

3. Massachusetts Department of Environmental Protection
   Division of Watershed Management
   Surface Water Discharge Permit Program
   627 Main Street, 2nd Floor
   Worcester, Massachusetts 01608

4. EPA New England
   Attn: Justin Pimpare
   One Congress Street
   Suite 1100 - CMU
   Boston, MA 02114

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
EPA NEW ENGLAND OFFICE
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

FACT SHEET

DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE TO WATERS OF THE UNITED STATES.

NPDES PERMIT NO.: MA0100765

NAME AND ADDRESS OF APPLICANT:

William Fitzgerald, Supervisor
Fairhaven Water Pollution Control Facility
Arsene Street
Fairhaven, MA 02719

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

Fairhaven Water Pollution Control Facility
Arsene Street
Fairhaven, MA 02719

RECEIVING WATER: Acushnet River (New Bedford Inner Harbor), Buzzards Bay Watershed (MA 95-42).

CLASSIFICATION: SB

I. Proposed Action, Type of Facility, and Discharge Location.

The above named applicant has requested that the U.S. Environmental Protection Agency (EPA) re-issue its NPDES permit to discharge into the designated receiving water. **Attachment A** shows the locations of the outfall and the wastewater treatment facility. The facility is engaged in collection and treatment of domestic wastewater. The discharge is from a secondary wastewater treatment facility.

The Town of Fairhaven owns and operates a 5 million gallon per day (MGD) activated sludge wastewater treatment facility. Wastewater treatment includes preliminary, primary and secondary processes. Final effluent is disinfected using ultraviolet rays and is discharged to the Acushnet River. Sludge is sent off-site to Woonsocket, RI for incineration.

The segment of the Acushnet River receiving the Fairhaven discharge (New Bedford Inner

Harbor) is classified as SB. The designated uses for SB waters include: habitat for fish, other aquatic life, and wildlife, and for primary and secondary contact recreation, and shall have consistently good aesthetic value. Where designated, SB waters shall be suitable for shellfish harvesting with depuration.

The Massachusetts Year 2008 Integrated List of Waters lists the receiving water (New Bedford Inner Harbor, Coggeshall Street Bridge to hurricane barrier, Fairhaven/New Bedford) as a Category 5 water, not achieving water quality standards and requiring a total maximum daily load (TMDL). The water is listed for priority organics, metals, nutrients, organic enrichment/low DO, pathogens, oil and grease, taste, odor and color, and objectionable deposits.

II. Description of Discharge.

A quantitative description of the discharge in terms of significant effluent parameters, based on Discharge Monitoring Reports (DMRs) from January 2006 to February 2008, is shown on **Attachment B**.

III. Limitations and Conditions.

The effluent limitations and the monitoring requirements may be found in the draft NPDES permit.

IV. Permit Basis and Explanation of Effluent Limitation Derivation

EPA is required to consider technology and water quality requirements when developing permit effluent limits. Technology-based treatment requirements represent the minimum level of control that must be imposed under Section 402 and 301(b) of the Act. Section 301(b)1)(B) requires that Publicly Owned Treatment Works achieve limits based on secondary treatment. Secondary treatment is defined at 40 CFR Section 133.102.

EPA regulations require NPDES permits to contain effluent limits more stringent than technology-based limits where more stringent limits are necessary to maintain or achieve federal or state water quality standards.

Under Section 301(b)(1)(C) of the CWA, discharges are subject to effluent limitations based on water quality standards. The Massachusetts Surface Water Quality Standards include requirements for the regulation and control of toxic constituents and also require that EPA criteria, established pursuant to Section 304(a) of the CWA, shall be used unless site specific criteria is established.

The permit must limit any pollutant or pollutant parameter (conventional, non-conventional, toxic and whole effluent toxicity) that is or may be discharged at a level that caused, has reasonable potential to cause, or contributes to an excursion above any water quality criterion. An excursion occurs if the projected or actual in-stream concentrations exceed the applicable criterion. In determining reasonable potential, EPA considers existing controls on point and

non-point sources of pollution, variability to toxicity and where appropriate, the dilution of the effluent in the receiving water.

A permit may not be renewed, reissued or modified with less stringent limitations or conditions than those contained in the pervious permit unless in compliance with the anti-backsliding requirements of the CWA.

EPA's anti-backsliding provisions are found in Section 402(o) and 303(d)(4) of the CWA, and in 40 CFR 122.44(l), restrict the relaxation of permit limits, standards, and conditions. Anti-backsliding provisions require that limits in the reissued permit must be at least as stringent as those of the previous permit, unless specific conditions are met.

A. Conventional Pollutants

Under Section 301(b)(1)(B) of the CWA, POTWs must have achieved effluent limitations based upon secondary treatment by July 1, 1977. The secondary treatment requirements are set forth at 40 CFR Part 133. The regulations describe the secondary treatment requirements for biochemical oxygen demand (BOD), total suspended solids (TSS), and pH. The "Average Monthly" and "Average Weekly" BOD and TSS limitations are based on the requirements of 40 CFR 133.102. Numerical limitations for pH and fecal coliform requirements are based on state certification requirements under Section 401(a)(1) of the CWA, as described in 40 CFR 124.53.

Monitoring frequency for BOD and TSS have been increased from 1/week to 3/week and monitoring frequency for bacteria has been increased from 1/week to 2/week to conform with requirements of similar wastewater treatment facilities.

New monitoring requirements and effluent limitations for enterococci are included in the draft permit based on water quality criteria recently adopted by MassDEP and approved by EPA.

B. Non-Conventional Pollutants

1. Toxics

a. Whole Effluent Toxicity

EPA's *Technical Support Document for Water Quality-based Toxics Control*, EPA/505/2-90-001, March 1991, recommends using an "integrated strategy" containing both pollutant (chemical) specific approaches and whole effluent (biological) toxicity approaches to control toxic pollutants in effluent discharges entering the nation's waterways. EPA-New England adopted this "integrated strategy" on July 1, 1991, for use in permit development and issuance. These approaches are designed to protect aquatic life and human health. Pollutant-specific approaches such as those in the Gold Book and State regulations address individual chemicals, whereas, the whole effluent toxicity (WET) approach evaluates interactions between pollutants thus rendering an "overall" or "aggregate" toxicity assessment of the effluent. Furthermore, WET measures the "additive" and/or "antagonistic" effects of individual chemical pollutants which pollutant specific approaches do not,

thus the need for both approaches. In addition, the presence of an unknown toxic pollutant can be discovered and addressed through this process.

Under Section 301(b)(1)(C) of the CWA, discharges are subject to effluent limitations based on water quality standards. The Massachusetts Surface Water Quality Standards (314 CMR 4.00), include the narrative statement that "All surface waters shall be free from pollutants in concentrations and combinations that are toxic to humans, aquatic life or wildlife." 314 CMR 4.05(5)(e).

Federal NPDES regulations at 40 CFR §122.44(d)(1)(v) require whole effluent toxicity limits in a permit when a discharge has a "reasonable potential" to cause or contribute to an excursion above the State's narrative criterion for toxicity. WET tests of the Fairhaven WPCF's effluent show consistent compliance with effluent limitations, however the low dilution ratio (1:7.2) calculated for the discharge contributes to a "reasonable potential" that the discharge could cause an excursion of the no toxics provision in the State's regulations. Inclusion of the whole effluent toxicity limit in the Draft Permit will ensure compliance with the State's narrative water quality criterion of "no toxics in toxic amounts".

Moreover, the Massachusetts Department of Environmental Protection's Division of Watershed Management's toxics policy requires whole effluent toxicity testing for all major dischargers such as the Fairhaven POTW (Implementation Policy for the Control of Toxic Pollutants in Surface Waters, MassDEP 1990).

Therefore, based on the potential for toxicity from domestic contributions, the low level of dilution, water quality standards and in accordance with EPA and MassDEP regulation and policy, the draft permit includes acute and chronic effluent toxicity limitation and monitoring requirements. (See, e.g., "Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants: 50 Fed. Reg. 30,784 (July 24, 1985); see also, EPA's Technical Support Document for Water Quality-Based Toxic Control). The principal advantages of biological techniques are: (1) the effects of complex discharges of many known and unknown constituents can be measured only by biological analyses; (2) bioavailability of pollutants after discharge is best measured by toxicity testing; and (3) pollutants for which there are inadequate chemical analytical methods or criteria can be addressed.

The type of test (acute and/or chronic) and the effluent limitations are based on available dilution. The Draft Permit requires the permittee to perform acute toxicity tests twice per year using Inland Silverside and Sea Urchin and contains an LC50 limit of 100% effluent concentration. The LC50 is defined as the concentration of toxicant, or in this draft permit, as the percentage of effluent lethal to 50% of the test organisms during a specific length of time.

The Draft Permit also requires chronic tests twice per year using Inland Silverside and Sea Urchin and contains a Chronic-No Observed Effect Concentration (C-NOEC) limit of 14 percent. C-NOEC is defined as the highest concentration to which test organisms are exposed in a life cycle or partial life cycle test, which causes no adverse effect on growth, survival or reproduction during a specific time of observation. The C-NOEC limit was calculated as follows;

Chronic NOEC Limit Calculation:

$$\frac{1.0 * 100}{8.2} = 12.2\%$$

As a condition of this permit, the testing requirements may be reduced by a certified letter from the EPA. This permit provision anticipates that the permittee may wish to request a reduction in WET testing. After four consecutive WET tests, demonstrating compliance with the permit limits for whole effluent toxicity, the permittee may submit a written request to the EPA seeking a review of the toxicity test results. The EPA will review the test results and pertinent information to make a determination. The permittee is required to continue testing at the frequency and species specified in the permit until the permit is either formally modified or until the permittee receives a certified letter from the EPA indicating a change in the permit conditions.

b. Chlorine

In April 2004, the Town of Fairhaven completed construction of an ultraviolet light (U/V) disinfection system and has ceased using chlorine as a disinfectant. Accordingly, limitations and monitoring requirements for total residual chlorine have been removed from the permit.

c. Metals

Certain metals like copper, lead, cadmium and zinc can be toxic to aquatic life. EPA has evaluated (see below) the reasonable potential of toxicity on the concentration of metals in the effluent. Based on this evaluation EPA has determined that there is no reasonable potential for adverse impact on the aquatic life and no need to monitor and limit these metals.

Calculation of reasonable potential for copper, lead, zinc and cadmium:

All effluent metals data are taken from the Toxicity Test Reports from the period March 2004 to March 2008.

Total allowable Receiving Water Concentration, C = Criteria (Tot. Rec.) x Dilution Factor/Conversion Factor

EPA 2002 National Recommended Water Quality Criteria for salt water and the dilution factor of 8.2 [calculated dilution ratio is 7.2:1 based on EPA approved UM Model with a discharge from a single 36 inches diameter port oriented at 90 degrees; dilution factor = (7.2 + 1)/1 = 8.2] are used to calculate effluent limits.

Copper:	Chronic	C = 3.1 x 8.2 / 0.83 = 30.6 ug/l which is greater than the monthly average effluent concentration range of 10 - 20 ug/l. So, reasonable potential does not exist.

	Acute	C = 4.8 x 8.2 / 0.83 = 47.4 ug/l which is greater than the maximum effluent concentration of 20 ug/l. So, reasonable potential does not exist.
Lead:	Chronic	C = 8.1 x 8.2 /0.951 = 69.8 ug/l which is greater than the monthly average effluent concentration range of 2.7 - 10 ug/l. So, reasonable potential does not exist.
	Acute	C = 210 x 8.2 /0.951 = 1811 ug/l which is greater than the maximum effluent concentration of 10 ug/l. So, reasonable potential does not exist.
Zinc:	Chronic	C = 81 x8.2 /0.946 = 702 ug/l which is far greater than the monthly average effluent concentration range of 12 - 50 ug/l. So, reasonable potential does not exist.
	Acute	C = 90 x8.2 /0.946 = 780 ug/l which is far greater than the maximum effluent concentration of 50 ug/l. So, reasonable potential does not exist.
Cadmium:	Chronic	C = 9.3 x 8.2 /0.994 =76.7 ug/l which is greater than the monthly average effluent concentration of 0.5 -10 ug/l. So, reasonable potential does not exist.
	Acute	C = 42 x 8.2 / .994 = 346 ug/l which is far greater than the maximum effluent concentration of 10 ug/l. So, reasonable potential does not exist.

2. Nutrients

a. Nitrogen

As described earlier, the receiving water is listed as impaired due to, among other things, nutrients, organic enrichment/low DO, taste, odor and color, and objectionable deposits. Numerous studies, as summarized below, have identified nitrogen enrichment as causing or contributing to these impairments. Excessive nitrogen causes algae blooms that deplete dissolved oxygen, causes visible color and turbidity, and ultimately decay causing objectionable odors and oxygen demanding sediments.

The current permit required the Town to evaluate and implement optimization of nitrogen removal processes at the WPCF. In November 2004, the Town completed a Draft Nitrogen Removal Optimization Study which evaluated influent nitrogen loadings and control options, and also evaluated the practicable extent to which nitrogen removal at the existing treatment facility could be further optimized. The study found that during the period from July 2000 to July

2004, the total nitrogen (TN) concentration in the treatment plant influent ranged from 11 to 53 mg/l with an average concentration of 29 mg/l. For the same period, TN in the effluent ranged between 5 to 22 mg/l with an average concentration of 13 mg/l. This translates to an average removal efficiency of 55%. The study concluded that with some operational changes, this efficiency could be improved to 70%. At an influent concentration of 29 mg/l and a removal rate of 70 %, the resulting effluent concentration would be about 9 mg/l.

Recent discharge monitoring reports (DMRs) for the months of January 2006 to February 2008 show an average effluent TN concentration of 15.3 mg/l, suggesting that the operational changes were not implemented.

Past Studies

The final Buzzards Bay Comprehensive Conservation and Management Plan dated August 1991, identified nitrogen loading as one of the most serious problems threatening many embayments around Buzzards Bay.

In 1994, the Buzzards Bay Project published a draft report titled " A Buzzards Bay Embayment Sub-watershed Evaluation: Establishing Priorities for Nitrogen Management Action". This report highlighted the major sources of nitrogen to New Bedford Inner Harbor and all other Buzzards Bay embayments. The report identified the Fairhaven wastewater treatment plant as the major source of nitrogen to the Inner Harbor.

On March 6, 1998 a refined evaluation of nitrogen loading and water quality of New Bedford Inner Harbor (Acushnet River) as it relates to the Fairhaven wastewater treatment facility was completed by the Buzzards Bay Project. The report concluded that the Fairhaven wastewater plant is the single largest source of nitrogen to the estuary.

On July 28, 2000, another report by the Buzzards Bay Project titled "A Preliminary Evaluation of Nitrogen Loading and Water Quality of New Bedford Inner Harbor (Acushnet River) as it relates to the Fairhaven Wastewater Treatment Facility", further refined the nitrogen loadings and again concluded that the Fairhaven wastewater plant is the single largest source of nitrogen.

MassDEP has completed a report (dated December 2008) entitled "Massachusetts Estuaries Project – Linked Watershed-Embayment Model to Determine Critical Nitrogen Loading Thresholds for the New Bedford Inner Harbor Embayment System, New Bedford, MA." The report documents nitrogen-caused impacts on the Acushnet River - New Bedford Inner Harbor embayment system from its headwaters to the hurricane barrier in New Bedford. The report uses historic sources as well as data collected for the study, quantifies sources of nitrogen to the receiving waters, summarizes hydrodynamic and water quality models developed to analyze the impacts of nitrogen loads, establishes a target nitrogen concentration necessary to achieve water quality standards, and using the water quality model evaluates scenarios for achieving the nitrogen target.

In determining the nitrogen threshold for the embayment, the study focused on habitat parameters (particularly infauna[1] since eelgrass has not grown in the receiving waters for at least 50 years), sediment characteristics, and nutrient-related water quality information (particularly dissolved oxygen, chlorophyll *a*[2] and macroalgae).

Benthic animal populations are influenced by dissolved oxygen and sediment quality. Low organic matter loading and high dissolved oxygen (DO) concentrations generally support healthy habitat and high organic matter loading and low DO do not support healthy habitat. Depletion of oxygen may occur only infrequently yet may have severe effect on system health. High chlorophyll *a* indicates large amounts of algae in the receiving water, which can cause large diurnal swings in dissolved oxygen as the algae produce oxygen during daylight hours and consume it during hours of darkness. Algae blooms also reduce sunlight penetration into the water column, generate high sediment oxygen demands as it dies and decays, and cause odors and visual impairments.

The study found impairment of infaunal habitat quality due to oxygen depletion, the magnitude of daily oxygen excursions, and organic matter enrichment from phytoplankton production (chlorophyll *a* level) at all monitoring locations. These impacts are indicative of nutrient enriched waters, specifically moderate to high nitrogen loading rates.. The study concluded that nitrogen enrichment is related to the dissolved oxygen depletion. Additionally, due to the increased phytoplankton production, the dissolved oxygen levels can rise significantly during daylight hours, due to photosynthesis, to concentrations above atmospheric equilibration. Oxygen levels above atmospheric equilibration is indicative of enriched nitrogen and associated organic matter. All monitoring locations showed periodic oxygen depletions below 5 mg/l and generally less than 4 mg/l.

The upper basin has a moderately impaired benthic habitat due to macroalgal accumulation, high chlorophyll a levels, frequent depletions of DO, and a preponderance of stress tolerant species.

The middle basin is a depositional area with sediments consisting of organic rich mud. The middle basin has moderate to high chlorophyll levels, frequent DO depletions and a moderately impaired infaunal community.

The lower basin is slightly to moderately impaired by nitrogen enrichment with significant impairment in localized areas of physical disturbance or altered flushing. The lower basin experiences moderate oxygen depletions and elevated chlorophyll a levels.

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1 Infauna are benthic animals that live in the substrate of a body of water, especially in a soft sea bottom. Infauna usually construct tubes or burrows and are commonly found in deeper and subtidal waters. Clams, tubeworms, and burrowing crabs are infaunal animals.

2 Chlorophyll is the green pigment found in all plants. Chlorophyll *a* is measured to estimate the abundance of phytoplankton in the water. More chlorophyll a indicates that there are more phytoplankton present. Most chlorophyll a is found near the surface of the water because there is less light at depth. Chlorophyll a concentrations are often highest just below the surface, not at the surface of the water.

In general, the data indicate a gradient in oxygen depletion and chlorophyll a levels from the upper to the lower basins. Consistent with the estuarine response to over-enrichment from nitrogen, the extent of bottom water oxygen depletion parallels the levels of phytoplankton biomass.

Limit Derivation:

The "Massachusetts Estuaries Project – Linked Watershed-Embayment Model to Determine Critical Nitrogen Loading Thresholds for the New Bedford Inner Harbor Embayment System, New Bedford, MA" report developed a loading scenario which would achieve the target total nitrogen concentration of 0.5 mg/l at the most highly impacted "sentinel" location at the head of the middle basin of the Acushnet River (see figure VIII-I) of the report.

The water quality model was first run assuming the elimination of loads from CSOs and the elimination of the Fairhaven WPCF discharge. Under this scenario, the desired nitrogen target of 0.5 mg/l was not achieved. A 13 percent reduction of loads from septic tank discharges was then added, resulting in attainment of the desired target. The estimated loads under this scenario were:

Current total nitrogen load = 310 kg/day (sum of loads from Fairhaven WPCF, New Bedford CSOs, septic, runoff, and fertilizer)

- CSO load eliminated = 25.7 kg/day reduction

- Fairhaven TN load is eliminated = 39236 kg/year = 107.5 kg/day reduction

- 13 percent of septic load eliminated = 11.4 kg/day reduction

Load meeting target TN concentration = 310 kg/day – 107.5 kg/day - 25.7 kg/day - 11.4 kg/day = 165.4 kg/day

The analysis shows that a TN load of about 165 kg/day is necessary to achieve the target concentration at the sentinel location. The Fairhaven treatment plant currently discharges about 256 lbs/day (116 kg/day) of TN (calculated 2006-2007 average load based on a flow of 1.99 MGD and 15.43 mg/l, which is somewhat greater than the 107.5 kg/day used for the study estimate). The treatment plant discharge of TN therefore has the reasonable potential to cause or contribute to the exceedance of the target concentration given that the current discharge represents about 37 percent of the current loading and 70 percent of the loading that will achieve the target concentration.

Regulations at 40 CFR Part 122.44(d)(1) require that effluent limitations must be included for any pollutant discharge at a level that has the reasonable potential to cause, or contribute to an excursion above any State water quality standard.

Additional scenarios evaluated in the Massachusetts Estuaries Project (MEP) report included the

Fairhaven treatment plant discharging at 3.0 mg/l total nitrogen and various levels of CSO remediation and septic system elimination (see page 173-176). These scenarios provide the necessary detail to determine the extent of CSO remediation and septic system elimination that will need to be accomplished in addition to reducing the Fairhaven treatment plant loading to the limit of technology (3.0 mg/l total nitrogen). Given the magnitude of the overall load reduction necessary to achieve the target load (about 165 kg/day) a high level of removal at Fairhaven, as well as high levels of removal from CSO and septic tank sources are necessary.

A TMDL has not been completed for this receiving water, but the information discussed above shows the reasonable potential for nitrogen discharges from the Fairhaven WPCF to cause or contribute to exceedances of water quality standards and shows that a total nitrogen effluent limit of 3 mg/l at the facility design flow of 5 MGD (coupled with significant reductions in other sources of nitrogen) is necessary to attain water quality standards. Accordingly, EPA and MassDEP have included a monthly average limitation of 57 kg/day (125 lbs/day), which corresponds to treatment plant flow of 5.0 MGD and an effluent concentration of 3 mg/l TN.

The draft permit requires total nitrogen monitoring three times per week. Following completion of the TMDL, EPA will either modify or reissue the permit as necessary to incorporate the nitrogen limits mandated by the TMDL.

C. Other Monitoring Requirements

The effluent monitoring requirements have been specified in accordance with 40 CFR 122.41(j), 122.44(i) and 122.48 to yield data representative of the discharge.

D. Pretreatment Program

Pollutants introduced into POTW's by a nondomestic source (user) shall not pass through the POTW or interfere with the operation or performance of the works.

The permittee will perform an Industrial User Survey as stated in the draft permit.

E. Sludge

In February 1993, the Environmental Protection Agency (EPA) promulgated standards for the use and disposal of sewage sludge. The regulations were promulgated under the authority of section 405(d) of the Clean Water Act (CWA). Section 405(d) of the CWA requires that sludge conditions be included in all municipal permits. The sludge conditions in the draft permit satisfy this requirement.

F. Essential Fish Habitat Determination (EFH)

Under the 1996 Amendments (PL 104-267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C.§1801 et seq.(1998)), EPA is required to consult with NMFS if EPA's action or proposed actions that it funds, permits, or undertakes, may adversely impact any

essential fish habitat.16 U.S.C.§1855(b). The Amendments broadly define essential fish habitat as: waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. 16 U.S.C.§1802(10). Adversely impact means any impact which reduces the quality and/or quantity of EFH. 50C.F.R.§600.910(a). Adverse effects may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

Essential fish habitat is only designated for fish species for which federal Fisheries Management Plans exist. 16 U.S.C§1855(b)(1)(A). EFH designations for New England were approved by the U.S. Department of Commerce on March 3, 1999.

Attachment C is the list of 16 managed species that are believed to be present during one or more life-stage within EFH Area, which encompasses the existing discharge site. No "habitat areas of particular concern", as defined under §600.815(a)(9) of the Magnuson-Stevens Act, have been designated for this site. Although EFH has been designated for this general location, EPA has concluded that this activity is not likely to adversely affect EFH or its associated species for the following reasons:

- This is a re-issuance of an existing permit;
- The quantity of discharge from the WWTF is 5.0 mgd monthly average; Effluent receives as a minimum secondary treatment using activated sludge processes;
- Effluent is discharged into the Acushnet River (New Bedford Inner Harbor) with an estimated dilution ratio of 7.2:1;
- Use of chlorine has been discontinued due to installation of a new Ultra - Violet (U/V) ray system to disinfect fecal coliform;
- A new monthly average total nitrogen limit of 125 lbs/day is established in the draft permit;
- Acute and chronic toxicity tests will be conducted on Inland Silverside and Sea urchin two times per year;
- The permit will prohibit any violation of state water quality standards.

Accordingly, EPA has determined that a formal EFH consultation with NMFS is not required. If adverse impacts to EFH are detected as a result of this permit action, NMFS will be notified and an EFH consultation will be promptly initiated.

G. Endangered Species

Section 7(a) of the Endangered Species Act of 1973, as amended (ESA) grants authority to and imposes requirements upon Federal agencies regarding endangered or threatened species of fish, wildlife, or plants ("listed species") and habitat of such species that has been designated as critical (a "critical habitat"). The ESA requires every Federal agency, in consultation with and with the assistance of the Secretary of Interior, to insure that any action it authorizes, funds, or carries out, in the United States or upon the high seas, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical

habitat. The United States Fish and Wildlife Service (USFWS) typically administers Section 7 consultations for bird, terrestrial, and freshwater aquatic species. The National Marine Fisheries Service (NMFS) typically administers Section 7 consultations for marine species and anadromous fish.

EPA has reviewed the federal endangered or threatened species of fish and wildlife to see if any listed species might potentially be impacted by the re-issuance of this NPDES permit. The review has focused primarily on Bristol County since the discharge is into the Buzzards Bay. Sea Turtles (Green, Kemp's Ridley Leatherback) are listed as endangered species and Sea Turtles (Green and Loggerhead) are listed as threatened species. Based on the conditions in the permit, which are as, or more stringent than in the present permit, EPA has determined that there will be no adverse effects on these species (see section F, EFH for a discussion of the pertinent permit conditions).

EPA is coordinating a review of this finding with NMFS and/or USFWS through the Draft Permit and Fact Sheet and consultation under Section 7 of the ESA with NMFS and/or USFWS is not required. If adverse impacts are detected as a result of this permit action, NMFS and/or USFWS will be notified and a consultation will be promptly initiated.

H. Anti-degradation

This draft permit is being reissued with an allowable wasteload identical to the current permit with the same parameter coverage and no change in outfall location. The State of Massachusetts has indicated that there will be no lowering of water quality and no loss of existing water uses and that no additional anti-degradation review is warranted.

V. State Certification Requirements.

The staff of the Massachusetts Department of Environmental Protection has reviewed the draft permit. EPA has requested permit certification by the State pursuant to 40 CFR 124.53 and expects that the draft permit will be certified.

VI. Public Comment Period, and Procedures for Final Decision

All persons, including applicants, who believe any condition of the draft permit is inappropriate must raise all issues and submit all available arguments and all supporting material for the arguments in full by the close of the public comment period, to the U.S. EPA, MA NPDES Municipal Permit Branch 5, Post Office Square , Suite 100 (OEP 6-4), Boston, Massachusetts 02109-3912. Any person, prior to such date, may submit a request in writing for a public hearing to consider the draft permit to EPA and the State Agency. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held after at least thirty days public notice whenever the Regional Administrator finds that response to this notice indicates significant public interest. In reaching a final decision on the draft permit the Regional Administrator will respond to all significant comments and make these responses available to the public at EPA's Boston office.

Following the close of the comment period, and after a public hearing, if such hearing is held, the Regional Administrator will issue a final permit decision and forward a copy of the final decision to the applicant and each person who has submitted written comments or requested notice.

VII. Monitoring and Reporting

The effluent monitoring requirements have been established to yield data representative of the discharge under authority of Section 308 (a) of the CWA in accordance with 40 CFR §§122.41 (j), 122.44 (l), and 122.48.

The Draft Permit includes new provisions related to Discharge Monitoring Report (DMR) submittals to EPA and the State. The Draft Permit requires that, no later than one year after the effective date of the permit, the permittee submit all monitoring data and other reports required by the permit to EPA using NetDMR, unless the permittee is able to demonstrate a reasonable basis, such as technical or administrative infeasibility, that precludes the use of NetDMR for submitting DMRs and reports ("opt out request").

In the interim (until one year from the effective date of the permit), the permittee may either submit monitoring data and other reports to EPA in hard copy form, or report electronically using NetDMR.

NetDMR is a national web-based tool for regulated Clean Water Act permittees to submit discharge monitoring reports (DMRs) electronically via a secure Internet application to U.S. EPA through the Environmental Information Exchange Network. NetDMR allows participants to discontinue mailing in hard copy forms under 40 CFR 122.41 and 403.12. NetDMR is accessed from the following url: http://www.epa.gov/netdmr Further information about NetDMR, including contacts for EPA Region 1, is provided on this website.

The Draft Permit requires the permittee to report monitoring results obtained during each calendar month using NetDMR no later than the 15th day of the month following the completed reporting period. All reports required under the permit shall be submitted to EPA as an electronic attachment to the DMR. Once a permittee begins submitting reports using NetDMR, it will no longer be required to submit hard copies of DMRs or other reports to EPA and will no longer be required to submit hard copies of DMRs to MassDEP. However, permittees must continue to send hard copies of reports other than DMRs to MassDEP until further notice from MassDEP.

The Draft Permit also includes an "opt out" requests process. Permittees who believe they can not use NetDMR due to technical or administrative infeasibilities, or other logical reasons, must demonstrate the reasonable basis that precludes the use of NetDMR. These permittees must submit the justification, in writing, to EPA at least sixty (60) days prior to the date the facility would otherwise be required to begin using NetDMR. Opt outs become effective upon the date of written approval by EPA and are valid for twelve (12) months from the date of EPA approval. The opt outs

expire at the end of this twelve (12) month period. Upon expiration, the permittee must submit DMRs and reports to EPA using NetDMR, unless the permittee submits a renewed opt out request 60 days prior to expiration of its opt out, and such a request is approved by EPA.

Until electronic reporting using NetDMR begins, or for those permittees that receive written approval from EPA to continue to submit hard copies of DMRs, the Draft Permit requires that submittal of DMRs and other reports required by the permit continue in hard copy format.

VIII. EPA Contact

Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays from:

Suprokash Sarker, P.E.
Municipal Permits Branch
Environmental Protection Agency
5 Post Office Square, Suite 100 (OEP 6-4)
Boston, MA 02109-3912
Telephone: (617) 918-1693
E–Mail: sarker.soupy@epa.gov

_____
Date

Stephen Perkins, Director
Office of Ecosystem Protection
U.S. Environmental Protection Agency

MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION
COMMONWEALTH OF MASSACHUSETTS
1 WINTER STREET
BOSTON, MASSACHUSETTS 02108

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ECOSYSTEM PROTECTION
REGION I
BOSTON, MASSACHUSETTS 02203

JOINT PUBLIC NOTICE OF A DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE INTO THE WATERS OF THE UNITED STATES UNDER SECTION 301 AND 402 OF THE CLEAN WATER ACT (THE "ACT"), AS AMENDED, AND REQUEST FOR STATE CERTIFICATION UNDER SECTION 401 OF THE ACT.

DATE OF NOTICE: July 8, 2010

PERMIT NUMBER: MA0100765

PUBLIC NOTICE NUMBER: MA-020-10

NAME AND MAILING ADDRESS OF APPLICANT:

Fairhaven Water Pollution Control Facility
Arsene Street
Fairhaven, Massachusetts 02719

NAME AND ADDRESS OF THE FACILITY WHERE DISCHARGE OCCURS:

Fairhaven Water Pollution Control Facility
Arsene Street
Fairhaven, Massachusetts 02719

RECEIVING WATER: Acushnet River (New Bedford Inner Harbor)

RECEIVING WATER CLASSIFICATION: Class SB

PREPARATION OF THE DRAFT PERMIT:

The U.S. Environmental Protection Agency, (EPA) and the Massachusetts Department of Environmental Protection (MassDEP) have cooperated in the development of a permit for the above identified facility. The effluent limits and permit conditions imposed have been drafted to assure that State Water Quality Standards and provisions of the Clean Water Act will be met. EPA has formally requested that the State certify this draft permit pursuant to Section 401 of the Clean Water Act and expects that the draft permit will be certified.

INFORMATION ABOUT THE DRAFT PERMIT:

A fact sheet or a statement of basis (describing the type of facility; type and quantity of wastes; a brief summary of the basis for the draft permit conditions; and significant factual, legal and policy questions considered in preparing the draft permit) may be obtained at no cost at

http://www.epa.gov/region1/npdes/draft_permits_listing_ma.html or by writing or calling EPA's contact person named below:

Suprokash Sarker
US EPA
5 Post Office Square
Suite 100
Mail Code – OEP06-1
Boston, MA 02109-3912
Telephone: (617) 918-1693

The administrative record containing all documents relating to this draft permit is on file and may be inspected at the EPA Boston office mentioned above between 9:00 a.m. and 5:00 p.m., Monday through Friday, except holidays.

PUBLIC COMMENT AND REQUEST FOR PUBLIC HEARING:

All persons, including applicants, who believe any condition of this draft permit is inappropriate, must raise all issues and submit all available arguments and all supporting material for their arguments in full by **August 6, 2010**, to the U.S. EPA, 5 Post Office Square, Suite 100, (OEP 06-1) Boston, Massachusetts 02109-3912. Any person, prior to such date, may submit a request in writing to EPA and the State Agency for a public hearing to consider this draft permit. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held after at least thirty days public notice whenever the Regional Administrator finds that response to this notice indicates significant public interest. In reaching a final decision on this draft permit the Regional Administrator will respond to all significant comments and make the responses available to the public at EPA's Boston office.

FINAL PERMIT DECISION:

Following the close of the comment period, and after a public hearing, if such hearing is held, the Regional Administrator will issue a final permit decision and forward a copy of the final decision to the applicant and each person who has submitted written comments or requested notice.

Glenn Haas, Director
DIVISION OF WATERSHED MANAGEMENT
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION

Stephen Perkins, Director
OFFICE OF ECOSYSTEM PROTECTION
ENVIRONMENTAL PROTECTION AGENCY