UNITED STATES OF AMERICA
ENIRONMENTAL PROTECTION AGENCY
BOSTON REGION

In the Matter of:

PUBLIC HEARING:

RE: NPDES DISCHARGE PERMIT FOR
TOWN OF SPENCER WASTEWATER TREATMENT PLANT
SPENCER, MASSACHUSETTS
NPDES PERMIT NO. MA0100919

Richard Sugden Library
8 Pleasant Street
Spencer, Massachusetts

Monday
March 26, 2018

The above entitled matter came on for hearing,
pursuant to Notice at 6:04 p.m.

BEFORE:

DAVID WEBSTER, Chief, Water Permits Branch
ROBIN JOHNSON, Permit Writer
U.S. Environmental Protection Agency
New England Region I
5 Post Office Square, Suite 100
Boston, MA 02210

SUZANNAH KING
Massachusetts Department of Environmental Protection
## CONTENTS

<table>
<thead>
<tr>
<th>SPEAKERS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>David Webster</td>
<td>3</td>
</tr>
<tr>
<td>Suzannah King</td>
<td>8</td>
</tr>
<tr>
<td><strong>PUBLIC</strong></td>
<td></td>
</tr>
<tr>
<td>Kevin Olson</td>
<td>10</td>
</tr>
<tr>
<td>Meg Noyes</td>
<td>15</td>
</tr>
<tr>
<td>Carl Nielsen</td>
<td>19</td>
</tr>
<tr>
<td>Jaime Vander Salm</td>
<td>21</td>
</tr>
<tr>
<td>Randy Weiss</td>
<td>34</td>
</tr>
<tr>
<td>Larry Dufault</td>
<td>36</td>
</tr>
</tbody>
</table>

APEX Reporting  
(617) 269-2900
MR. WEBSTER: Good evening, ladies and gentlemen. My name is David Webster. I'm the Chief of the Water Permits Branch at the Region 1 Office of the United States Environmental Protection Agency, also known as EPA.

Co-chairing this public hearing with me is Suzannah King from Massachusetts Department of Environmental Protection, commonly referred to as Mass DEP. Also joining me here tonight is Robin Johnson, EPA's Permit Writer for this permit which is the subject of the hearing.

This hearing, concerning the issuance of the National Pollutant Discharge Elimination System or NPDES or sometimes called "Nip-tees" permit for the Spencer Wastewater Treatment Plant in Spencer, Massachusetts shall come to order.

This permit is for the Town of Spencer Wastewater Treatment Plant, or the Spencer Wastewater Treatment Plant operated by the Town of Spencer's Sewer Commission, or we'll just say Spencer. It is permit number MA0100919.

This permit for the Spencer Wastewater Treatment Plant will be issued to Spencer in final form upon consideration of comments received during the public comment period, including those received during this public hearing.

In Massachusetts, EPA and Mass DEP typically issue
permits jointly. Although the permit is a single document signed by both agencies, legally, each agency issues the permit under separate federal and state authority, namely, the Federal Clean Water Act's National Pollutant Discharge Elimination System or NPDES, and the Massachusetts Clean Water Act's Surface Water Discharge Permit Program.

The NPDES program issues permits to facilities that discharge pollutants into waters of the United States. The permit writer develops effluent limits as well as monitoring and reporting requirements based on information from the facility, federal regulations, state water quality standards, technical guidance published by EPA and the state, state and federal policy and other information.

More information on the NPDES program is available in the NPDES program summary. There's a handout entitled Water Permitting 101. And there are copies up at the table. Oh, we're all out. I don't need it, I hope.

Along with this document, there is a web address where you can find Spencer Wastewater Treatment Plant Draft Permit and additional information on the NPDES program.

EPA and Mass DEP released the Draft Permit for public notice for this facility on February 26, 2018. The public comment period began on February 26, 2018 and is scheduled to end on March 28, 2018. The legal notice for this public comment period was available on EPA's website on
February 23, 2018 and in the Worcester Telegram and Gazette newspaper on February 26, 2018.

So, since February 23, 2018, the Draft Permit Fact Sheet and supporting documents have been available for interested parties to review and comment on. The Fact Sheet describes the type of facility, the type and quantity of waste, a brief summary of the basic basis for the Draft Permit conditions and significant factual legal and policy questions considered in preparing the Draft Permit. The Draft Permit and Fact Sheet, including the attachments, also were made available on EPA's website and they still are.

You have probably received or have seen copies of the Draft Permit and Fact Sheet. But, in case you haven't, some are available here at the hearing that you might want to look at, or on the EPA website.

Comments on the Draft Permit can be made by sending written comments to EPA and/or by making comments during this hearing.

Tonight's hearing is an informal non-adversarial hearing providing interested parties with the opportunity to make oral comments and/or to submit written comments on the proposed permit. There is no cross examination of either the panel or the commenters. Any questions directed to the commenters from the panel members will be for clarification purposes only.
This public hearing is being recorded. The transcription will be part of the official administrative record for this permit. However, in order to ensure the record's accuracy, we highly recommend that you submit written comments in addition to any comments you make tonight.

As previously mentioned, the public comment period will close at midnight on March 28, 2018. Following the close of the public comment period, EPA and Mass DEP will review and consider all the comments received during the public comment period both in writing and at tonight's public hearing.

EPA and Mass DEP will prepare a document known as a Response to Comments that will describe and address the significant issues raised during the comment period and what provisions, if any, of the Draft Permit were changed and the reasons for the changes.

The Response to Comments will accompany the Final Permit for the Spencer Wastewater Treatment Plant when the Final Permit is issued. Notice of the availability of both the Response to Comments and the Final Permit will be mailed or e-mailed to anyone who commented on the Draft Permit.

Anyone who wishes to contest the Final Permit must file a petition for review or appeal with the Environmental Appeals Board, also known as the EAB. A couple of important
things to remember if you're considering appealing the Final Permit. First, a petition for review or appeal must be received by the EAB within 30 days of the date that the Final Permit is issued. More information on how exactly to calculate this period will be available with the Final Permit.

Second, only persons who filed comments on the Draft Permit during the public comment period, or who provided comments during the public hearing, may petition the EAB for review of the Final Permit conditions.

Third, any person seeking a review of the permit decision must raise all reasonable ascertainable issues and submit all reasonable available arguments supporting their position during the public comment period, including during the public hearing.

Issues or arguments that were not raised will not be considered by the EAB on appeal. There is one exception to the above. Any person who failed to file comments or failed to participate in the public hearing may petition the EAB only to the extent of a change from the Draft to the Final Permit. More information on the appeals process can be found at EPA's website and at the time of the Final Permit decision.

So, my co-chair, Suzannah King, from Mass DEP, also has some opening remarks.
MS. KING: Good evening. My name is Suzannah King. I represent the Massachusetts Department of Environmental Protection.

This is a joint public hearing being held under the provisions of state as well as federal laws and regulations.

The Massachusetts Clean Water Act, General Laws Chapter 21, Sections 26 to 43 and the Code of Massachusetts Regulations 314 CMR 3 prohibit the discharge of pollutants into the waters of the commonwealth unless authorized by a permit issued by the Department of Environmental Protection.

The Department and the US Environmental Protection Agency, New England Region 1, have entered into an agreement to cooperatively process applications and jointly issue surface water discharge permits. The permits issued under this program are developed to conform to both state and federal water pollution control laws and regulations.

Each agency has the independent right to enforce the terms and conditions of the permit. Thus, the Department will also fully consider all written and oral comments received at this hearing in addition to written comments already received by the agencies.

The EPA has requested that the Department certify the Draft NPDES Permit for the Spencer Wastewater Treatment Plant in accordance with the provisions of Section 401(a)(1)
of the Federal Clean Water Act and pursuant to 40 CFR Section 124.55.

No final decision concerning certification will be made until all comments received have been reviewed. The permit can be certified in its current form or with specified state certification requirements.

The Department of Environmental Protection welcomes the opportunity for this hearing to gather any additional information that will assist the Department in making decisions concerning the Final NPDES Discharge Permit for the Spencer Wastewater Treatment Plant.

MR. WEBSTER: Thank you.

So, to begin hearing your comments, I'm going to first ask a couple of representatives from the Town of Spencer as the permittee, if they wish. Then, I usually go to any federal, state or local officials. There is one office from the Spencer Sewer Commission that I'll give the opportunity. And then, I'll use the cards and call on people as they registered on here to comment. And I will ask at the end if there's anybody that didn't get a chance to do that to come to the podium.

If you do speak, I'm going to let everybody else have a chance to speak and see what time it is by the end if there was something else that you wanted to say at the end. It's a fairly good size group. I think we won't have a
problem. You know, try to keep your comments to the order of five minutes or so and I think we'll do pretty well. But, let me know. And if I ask you to stop and you've not finished, I'll ask you to defer the remainder of your comments until each person has had an opportunity to comment. Then, if there's time at the end, we'll give you a short opportunity to finish up your comments.

Again, if you have written statements, you can read it if you can do it in five minutes. But, I'd ask you to summarize the statement if it goes on and on and on. And again, I'd encourage you to do written comments. It's easier for us to deal with them and nothing gets lost in the translation. Although, we have an excellent stenographer here tonight.

So, again, thank you for coming to this. And we'll start off with Kevin Olson from Wright Pierce representing the permittee.

MR. OLSON: Do you want people to come up to the podium?

MR. WEBSTER: Oh, yes. I'm sorry. When you get a chance, come up to the podium so you're addressing the audience and us. Thank you very much.

MR. OLSON: Thank you everybody. Good to be here tonight. Kevin Olson, Senior Project Manager with Wright Pierce. We are a consulting engineer working with the Town.
We've been working with the Town for several decades I think actually. So, we continue to work with them now as part of the permitting review process.

So, I did get a chance to speak at the meeting before. So, I'll shorten up a couple of things that I did want to say. But, I just wanted to say first and foremost, ourselves and the Town have appreciated the work that EPA and DEP have done with us to date to get to this point of the Draft Permit. So, it's good to see that we're actually at this point right now.

EPA's aware that the Town will be submitting its written comments tomorrow. Robin is aware of that. And we actually will make some comment on the dates that are proposed in the Draft Permit as well and some of the interim dates in particular. So, those are forthcoming.

A couple of big picture comments that I'd like to make on behalf of the Town. The Town has done a lot of work over the last several decades, like I mentioned, at the treatment plant as well as in the collection system. And they've tried to really be good stewards for the environment, but also do the best job they can for the sewer users. So, this is really just kind of a next step in that process.

The NPDES permit, I think, everybody knows is really going to drive some of that work. There are some
needs at the plant now. But, with the permit itself, we talked about some of those metrics earlier.

Phosphorous is one of them. And I did mention there is a handout. Again, I'll mention it now that we're on the record. If you don't have it, I think, there might still be some copies there. So, feel free to take a look at that. I'll talk a little bit more about that in a minute.

The Town is doing some other things right now as well as reviewing the Draft Permit. They're working on its comprehensive wastewater management plan right now. And that will help really set the road map for the next 20 years. What are they going to do with their collection system? What are they going to do with their plant? So, everything is going to get wrapped into that, into one nice document.

And then, right at the very end of the public meeting, I didn't get a chance to say that, when that is complete, there will be a public hearing and meeting as a requirement of that. So, I just wanted to make that comment to you that there will be an opportunity to actually comment on that as well.

The CWP is in three phases. The first phase is more or less complete at this point and moving into phase 2. Our intended schedule is to have phase 3, the final phase, completed in October of this year. So, right around that
time would be the likely time we'd schedule the public meeting and hearing on that.

The Town is also working on its II control plan right now, infiltration and inflow, II. It's DEP required. They have a time extension to complete that. All municipal sewer communities were supposed to have that completed by the end of last year if you didn't have a time extension. The Town does, so that will get completed by the end of this year.

Really, I'm bringing that up more to tell you that, after you do the infiltration and inflow program, they'll move into the next phase, which is sewer system evaluation survey, where you try to further identify some issues with it in collection system. And more salient to tonight's point is ultimately move into some sewer rehab as needed to be able to reduce infiltration and inflow, which would have a positive effect on the collection system as well as the plant in terms of a flow standpoint. So, again, the Town is doing a lot of really good work.

To the handout, and my last point that I'll make, again, take a look at this. In black, the process flow diagram is the existing treatment facility. And then, in red and in green, lays out a number of things. Again, we don't have all of the details for you tonight. Give us a little bit more time and we'll have a better feel for how
the Town plans to get permit compliant.

   But, there are a number of things that have already been talked about tonight, phosphorous being one of them. It's likely that they're going to add on a tertiary phosphorous system to get from that seasonal point 2 down to that seasonal point 1.

   A couple of other things, the wetland basins that were mentioned earlier we are looking at, and the Town is considering, eliminating those basins. You know, we talked about, you know, the fact that there's some flow that's being lost there. We are looking at relocating the outfall from the Cranberry to the Seven Mile River. That's also part of what we're looking at right now.

   There's some other items in here that we're looking at. Total nitrogen, it's a report only for this permit cycle. So, there is no numerical limit. We know that, but we, as the Town's engineer, need to take a look ahead and say could that be coming in a future permit cycle. So, we're going to look at that as well.

   And as part of making upgrades to meet the current pending permit here, you know, what about nitrogen in the future. So, we're going to keep that future in mind.

   A couple of other things I just wanted to leave you guys with. In closing, the Town -- you know, there's a lot of work to be done here. And there's a lot of
variables. I know that people might have their certain opinions on when this should be completed. But, the Town is aware that the end game for permit compliance as written in the draft is the end of 2024.

So that is right now what the Town is looking at as a potential treatment plant upgrade and being permit compliant. But, again, the Town will comment on those interim milestones as well.

So, I think, I've covered it. I don't want to get the hook here. I wanted to stay within five. So, hopefully, I did.

MR. WEBSTER: Thank you, Mr. Olson. That's great. Thank you.

I'd next call on Frank White from Spencer Wastewater Treatment Plant.

MR. WHITE: He spoke for me and everybody else.

MR. WEBSTER: Okay. I'd then call Larry DuFault. Do you want to talk?

MR. DUFALUT: No. I think that Kevin covered it pretty much.

MR. WEBSTER: Okay. Then, I'd move on to Meg Noyes from the lake association.

MS. NOYES: Thank you. Hi. My name is Meg Noyes and I'm from the Quabog and Quacumquasit Lake Association. And I'm going to introduce the work of the organization.
Then, you'll hear about our water consulting firm, ESS. They conducted testing of the waters downstream of the plant for us. And finally, our legal issues by our lawyer, Jaime Vander Salm.

Don R. Taft, resident of Brookfield, has worked with me on this presentation and is a presenter of this comment. He and I are members of the board for 12 years. And we're a non profit representative organization of about 200 families in the watershed that have an interest in seeing improvements in the Spencer Wastewater Treatment Plant. This has been over 25 years.

I'd like to make it perfectly clear that we also represent part of the towns of Sturbridge, East Brookfield and Brookfield who have interest also in seeing improvements. And they have written letters which I think you've gotten. And you'll also probably hear other people who want to express opinions, their own viewpoints.

We have concerns about the economic impact of the wastewater treatment plant. And I'd like to thank DEP and EPA for holding this required meeting and hearing.

Our mission is the protection of the environment, waterways, streams, rivers, wetlands and lakes as suggested by the 1972 Clean Water Act. We are concerned with the economic and recreational impacts of the Spencer Wastewater Treatment Plant on the lakes and streams, not to mention the

APEX Reporting
(617) 269-2900
protection of East Brookfield and Brookfield's public water source wells.

Quabog, North Pond and Quacumquasit, South Pond are directly downstream from the wastewater treatment plant. These bodies of waters are prime recreational water that are prized for both their warm water and cold water fisheries. The lakes also provide swimming, boating, kayaking, canoeing and a general enjoyment of this treasured resource. They also contain special flora and fauna, two different species of bittern and the largest US concentration of the rare kings bulrush.

There's deteriorating water quality and it has an effect on the value of the land for water waste and the individuals. And we're all collectively responsible. And phosphorous is the biggest problem.

So, what has QQLA done to limit phosphorous in the watershed. We helped with the implementation of the ban on phosphates in dishwashing and washing machine detergents. We have educated the public to limit the phosphorous in lawn fertilizers. We've supported the Town's efforts in Title 5 septic system replacements. We've secured 319 grants to deal with the runoff and contaminating infiltration of our waterways. We provide trash services at both ponds, beaches and boat ramps. We paid for fall and spring coverage of boat ramps with porta potties. We hold spring clean up
dates. And we urge the preservation of shore trees and vegetation.

And this has happened through steady fund-raising, education and implementing costs and thousands of hours by hundreds of volunteers.

Spencer Wastewater Treatment Plant is a large point source discharge of contaminants, pollutants and high nutrient load phosphorous. Annually, we spend $12,500 to deal with the growth of invasive aquatic plants. The number is small compared to what needs to be dedicated each year after year in order to fend off these plants. That figure doesn't come close to what it might cost, in the millions, to dredge North Pond or to provide an alum treatment, about a half a million for South Pond.

In closing, I'd like to thank the DEP and the EPA for listening to our suggestions. We applaud the complete re-engineering of the plant that answers the entire problem which we've documented. But, we want to please make the process of the build up of the new plant happen in the most expeditious time frame possible. Please allow for annual public information and time for questions so we can follow the timely progress of the treatment plant's building.

Please recognize the hard work of hundreds of people and minimize the cumulative damage that's been done to our lakes. Help us improve the quality of the treasured
lakes that benefit a whole community of users. Thank you.

MR. WEBSTER: Thank you very much.

I'd next call on Carl Nielsen from the lake association.

MR. NIELSEN: Thank you very much. So, I'm a certified lake manager. I've been working for over 20 years with QQLA. And I've been working in lake management for over 27 years.

My experience with QQLA goes back further than that. I grew up on the lakes. I recall what they used to look like before excessive phosphorous loading had occurred.

Phosphorous, as we've all talked about, is the significant source of nutrient to the lake. It's the critical one that causes the algae blooms. Those algae blooms settle to the bottom of the lake each year and result in internal recycling within the lake.

That internal recycling adds each year an additional load to that pond. And over 20, 30 years, what's happened is, the phosphorous has inched up. When I was a kid, phosphorous in the lake was .015. Now, it's .2 in South Pond. North Pond is .4 -- .04. Sorry. So what's happened is, over time, that phosphorous has inched up and now algae blooms are more common in South Pond. They happen annually in North Pond.

QQLA has fought to combat those algae blooms with
treatments to keep the water swimmable each summer. And my company, ESS, has worked to help them do that each year by monitoring and implementing those programs.

Over nearly 30 years ago, QQLA put in or worked to put in a gate between the two ponds. That gate was designed to keep phosphorous out of South Pond which has a one a half to two year flushing rate. That slow flushing rate means that every time there's a big storm in the watershed and a back flow of water, that water comes with nutrients that flush into South Pond and add to that internal recycling load.

And it takes two years for that water to flush itself out. So, if you get a back flow every year, you're going to just gain phosphorous over time. And that's what has been happening.

The North Pond has a very slow flushing rate, about 30 days to 60 days. And that slow -- I mean, fast flushing rate. Sorry. That fast flushing rate means that the nutrients that come down from the Seven Mile River into North Pond flush through the pond relatively quickly. When we get into some of the discussions later, we're going to have some very specific points that will relate to some of these facts as to how we think the permit could be improved. And Jaime is going to step up to the plate, I think, next and try to run through a few of those suggestions.
That's all I have. Thank you.

MR. WEBSTER: Thank you very much.

James Vander Salm.

MR. VANDER SALM: Thank you. So, my name is Jaime Vander Salm and I'm the attorney for QQLA. And we've submitted written comments. And I'll just briefly go through those, some of them.

But, before I do, I'm hoping -- I understand there's no -- give and take here is not what this hearing process is about. But, I certainly hope that EPA or DEP, if there's something I'm saying that you disagree with, I hope that you'll let me know.

So, we have seven -- QQLA submitted a total of seven comments. The first of those comments, was that the proposed new phosphorous limits must be lower to comply with the facility's TMDL waste load allocation. So, the waste load allocation, as it says in the fact sheet, the waste load, the effluent limits must be consistent with the TMDL waste load allocation. So, the waste load allocations are .79 pounds per day and 1.19 pounds per day as we heard before.

If you do the math, and this is one of these areas where I hope that someone will correct me if I'm incorrect, but I think, if you do the math, and you try to figure out what effluent limit is necessary in order to ensure that the
daily poundage of phosphorous is under .79, for example, in the summer, I think, if you do the math, as is done in my comment, I think what you get is actually a .09 milligrams per liter -- this is rounded off -- but, it's .09 for the summer versus the .1. And you get a .13 as opposed to the .2 for the winter.

So, you've got a difference in both. And you have a difference of the actual -- the .2 that is proposed in the Draft Permit for the winter is actually more than 50 percent higher than I think the waste load allocation will allow. That is to say, the 1.19 pounds per day will allow. If you're at .2 milligrams per liter, you're going to be going considerably over that 1.19, that waste load allocation.

So, I think, as a matter of law, and this is as cited in the permit, this is 40 CFR, this is the federal regulations, 40 CFR 122.4(d)(1)(7)(B). I think, as a matter of law, those have to be lower. And I understand this is, again, this is not a give and take. But, if there's something I'm saying wrong, I would invite a give and take on that point here, even though I understand there will be a response to these comments on paper.

So that's the first comment. Again, the limits by law should be no greater than .09 milligrams per liter for the growing season, and no greater than .13 milligrams per liter during the winter season.
The second comment is about the length of those seasons. As, I think, everyone here knows, the summer season, the growing season within this Spencer permit has applied and does apply in the Draft Permit. That limit for phosphorous applies for six months. That is to say from May 1st through October 31st.

And as I say in the comment, I think this is an anomaly. I have cited 20 other towns in Massachusetts here in this comment all of which have these adjusted seasonal limits for phosphorous, in other words, it’s different in the winter season and the growing season. And they all employ a seven month growing season. And I don’t know if there’s a reason for that.

I didn’t find an exception. In my own review of the permits online, I didn’t find an exception to this seven month growing season, five month winter season to the break down of the year into those two periods for phosphorous purposes. So, I think, at the very least, Spencer is exceptional in this respect in having the lower limit apply for six as opposed to seven months. And I would ask, on behalf of my client, that this permit reflect the norm, which is to divide the year into a seven and a five month period.

This is not just the norm. It also is smart because April, the month of April, again, which is now in
the Spencer permit, the higher phosphorous limit applies for the month of April. The growing season is -- well, it's becoming longer. I think, what you see in these other permits actually reflects the true growing season or the increasingly true growing season which begins earlier. So, you should have the lower limit apply earlier.

You have climate change impacts, such as higher temperatures, higher water temperatures, accelerated ice off. You have things growing sooner. So, it makes sense for the permit here in Spencer to be aligned with what I believe is the norm. And I think the norm is actually an understatement. I think, almost every permit, I didn't find an exception, almost every permit uses this seven month/five month break down.

The third comment that we have submitted has to do with the length of the time line. And we were looking in the fact sheet for an explanation as to -- we, QQLA, was looking in the fact sheet for an explanation as to why these periods of time were necessary. And what we see is, there's a mention of -- there's an application for financial assistance and that takes a while. And also, this is going to be costly to the members, to the persons who pay sewer fees in town.

I think, what makes it for QQLA earlier is very important to bear in mind here. There is economic cost
being imposed down the river. And to the degree that financial considerations are dictating a longer schedule, and the fact sheet more or less says that's what's happening here, I think, the agency should weigh that against the financial cost to those people downstream. And there doesn't seem to have been any -- well, there's no analysis in the fact sheet as to the cost that this is imposing on persons who live on -- I think, it's not just the people who live on these ponds, it's the people who recreate in these ponds. It's a huge group of people who suffer economic loss to the degree that their lives and their enjoyment of these resources are diminished. So, I think that's important to take into account.

In any event, I don't think it is reasonable, even if all of the financial cost of this were being borne by the tax payer or by the sewer rate payer in Spencer, you still have a situation here where I believe it's safe to say, as we have in the comments, that the town of Spencer has been an extraordinary beneficiary of -- they have been treated quite charitably by the agencies thus far. And I think that's true in several respects.

It's true because, for example, this permit is being -- we are six years beyond the point where this permit -- I understand this is normal, but still, they had an extra six years before they had to come to this point in time when
they were going to be called upon to spend money on these upgrades.

It is also very important to keep in mind that, as things stand, the permit effectively licenses the Town, and has for the last 11 years, licenses the Town to exceed its waste load allocation when you do, in fact, take into consideration the water, more than half of the water that comes in that is being lost through the wetland beds. What the current permit does with the current limits in place, the .2, .3, it ignores that water, and thereby, has given the Town a huge break in ignoring a large percentage of the pollution that is coming from the facility.

And I do think it's worth remembering this discharge to groundwater is actually illegal. I don't think that's in question. It violations Massachusetts regulations at 314 CMR. They need a groundwater discharge permit to do this. They've been violating this for decades. For decades. And there's been no price to pay.

I believe this also violates federal law. Increasingly, the case law says that you do, in fact, need a federal clean water discharge permit if you discharge to groundwater and it then comes out into surface waters, which is what we -- I think we have here with respect to this water coming out into Cranberry River and/or Seven Mile river.
The point is, the Town has received very generous treatment. Its violations of law, both federal and state, certainly state, have been tolerated. This permit is six years late in coming. This permit has licensed them to exceed the waste load allocation that is established in the TMDL report.

For all of those reasons, the agency should say no, we're going to insist that they move diligently and expeditiously in their design and execution of these upgrades.

Number four, and I know I'm a bit over my five minutes here, so I'll be brief. The fourth comment, I think, in several respects, the permit time line for the phosphorous limits is problematic in that it is not sufficiently specific, specifically, in three respects. Part 1(b)(2)(B) states that the Town shall, "complete a conceptual design to meet the total phosphorous limit by December 31, 2018". And QQLA requests that it be specified that they complete a 25 percent conceptual design to meet the total phosphorous limit, that the actual kind of conceptual design, the degree of design, that that be specified. I think, otherwise, you're going to have a disagreement which will be bad for all parties and all agencies later on as to what that means.

The same thing for part 1(b)(2)(C) of the
phosphorous time line which says that, no later than July 31, 2020, the Town shall, "complete design plans and specifications for necessary upgrades." QQLA requests that this be amended so that it reads, complete design plans and specifications for necessary upgrades and obtain all permits required to perform such upgrades. There's nothing in the time line about acquiring permits. And I think that is going -- that lack of specificity is problematic and will cause disagreement later on as well.

Thirdly, I'm not sure if this is -- I'm not sure if this was an omission or not on DEP's part, on the agency's part, but part 1(b)(2)(E) of the permit, of the Draft Permit, says, "the Town shall attain compliance with the final effluent limits for phosphorous by December 31, 2024." It doesn't say that they must complete construction of necessary upgrades including removal of the constructed wetlands which is what QQLA would suggest.

The fact sheet does say that it is -- as has been said here today, I think, by Robin or one of the speakers, it is understood that upgrades to the facility will include removal of the constructed wetlands. And I don't know what that understanding is worth in terms of its legal effect. If it just exists in the fact sheet, I don't think it's worth much in terms of binding them legally. And I understand the premise here tonight seems to have been that
that is not, in fact, binding, that this is potential, and
that that's not being required.

Certainly, if that is something that the agencies
want to require, it should be there right there in that time
line in the permit as opposed to just a suggestion in the
fact sheet. QQLA would certainly urge the agencies to put
that requirement that they actually, by that date, remove
the constructed wetlands, that that be put in the actual
permit. Because we don't really know what's happened. As
has been discussed tonight, we don't really know what's
happening with the water that's getting through there in
terms of its phosphorous content or anything else.

And it's illegal. It's illegal. And that's not,
I think, arguable. It certainly violates state law for them
to be discharging to groundwater without a permit. So,
those are three suggestions as to greater specificity in the
time line.

The last three requests are comments that QQLA
made that have to do with, when looking at this permit, and
I know it resembles a lot of these permits, but one is
struck by the lack of provisions that are aimed at ensuring
that the Town will comply. So, I think, it's important, and
this was alluded to by one of the speakers earlier, I think,
it's extremely important that there's an annual report, for
example, that is -- it says that each year, by December
31st, the Town shall submit an annual report summarizing what it has done for the previous year to EPA and Mass DEP. I think, that language is very weak, summarized. So, at the very least, I would hope that the actual time line would insist on a detailed as opposed to a summary report, and actually set forth the types of detail that are going to be required.

This sort of transparency, I think, will be good for everyone. It will put greater pressure on the Town to actually act. It will enable concerned citizens and the agencies to know exactly what's happening if language such as the following is included; the annual report shall include -- this is just a proposal, but I would hope that something approximating this would be included in the permit -- the annual report shall include, without limitation, a registered professional engineer's detailed description of all planning design and construction activities performed or scheduled to be performed during the past or subsequent calendar year, dates during which such activities have been performed or are scheduled to be performed shall be specified. Any problems or delays encountered or anticipated in the performance of such activities shall be explained in detail. The annual report shall be made available to the public through the Town's website simultaneously with its submission to EPA and DEP.
I think, this is very important for this permit to spell out exactly -- to make that annual report useful. I think, it's a very useful tool for transparency. But, in order to make it -- to maximize its usefulness, I think, it's very important that it specify what kind of -- that it specified detail and it specified what kind of detail should be included.

QQLA would also suggest that there should be a live public presentation required. And I understand, again, this may not be normal for a permit, but perhaps it should be, that there be a forum like this at which the Town, after having submitted its annual report, and what we propose is that next February, that there be a meeting at which the author of that report present to the public and answer questions from the public regarding what has happened for the previous year and what is planned for the next year.

Again, I think, in the long run, this will be beneficial for all parties, this kind of -- for the public to be informed, for the agencies to be informed and for the public to have opportunities to actually ask questions and express concerns about the progress that the Town is or is not making.

I would also suggest that a third party reviewer would be useful here to keep the Town honest and to ensure that it's taking these requirements -- that it's moving
along quickly and that it's moving along intelligently, both with respect to its designs and its construction of upgrades.

Lastly, in some of the general NPDES permits, you see a language about enforcement. You'll see language, for example, in the construction general permit. Any violation of this permit is a violation of the Clean Water Act for which you can be fined, up to this amount, 50 some thousand dollars per day per violation. I think, it's important to have a paragraph like that in the permit. I don't think there is one that actually sets forth -- that serves to give the Town a clear advanced warning that there actually will be enforcement consequences, and ideally, what those enforcement consequences will be.

Obviously, there can be fines. But, I still think it's important to actually say that in the permit. I think, the Town has had a lot of experience with the law not being enforced against them. And I think, it is safe to assume the Town may have become accustomed to thinking that these deadlines and the terms of this permit will not be very vigorously enforced against them. And I think, a statement will be useful about the agency's intention to hold the Town to these deadlines, for example, and also, what the agencies will do concretely. So, for example, it might say, if you fail to meet these deadlines, the agencies intend to take
enforcement action, and this enforcement action may include, aside from fines, it may include a ban on the receipt of further transported septage or other waste from entities that are not connected to the sewer system. Or perhaps, a freeze on further connections. The type of enforcement actions that agencies do tend to take against wastewater treatment plants that are recalcitrant or that are violating the terms of their permits.

It would seem very useful to spell that out right here. Certainly, the Town is not going to be able to come back later, if it becomes tardy or recalcitrant, it will not be able to come back later and say that it did not anticipate that these types of things would be the consequences.

Again, all of this is written in some greater detail in these comments. And on behalf of my client, we really appreciate the time that you're spending this evening, and also the time that you have spent communicating with them. In particular, Robin, they really appreciate the consideration that you have shown them in recent years. So, thank you.

MR. WEBSTER: Thank you. Again, we're not going to interact. But, after the hearing's closed, we can talk about a lot of the ideas that you had there.

MR. VANDER SALM: Thank you.
MR. WEBSTER: That's the last card I have. Is there anybody that did not speak that would like an opportunity to make a statement? Come on up. Introduce yourself.

MR. WEISS: My name is Randy Weiss and I'm an East Brookfield resident. I live on Red Gable Road on North Pond. And I've two comments. The first is a technical one. It's pretty clear from the reports that this Spencer Wastewater Treatment Plant has put out -- if they're compared with the US geological survey gauge of the river that's upstream from the plant, that when there's heavy rains, the outflow from the plant increases dramatically. And this is easy to see from comparing those two sites.

So, it's clear, although there's no direct proof, there's no physical evidence of where the pipes are, that the storm drains are somehow flowing into the wastewater treatment plant. And this is a problem for any wastewater treatment plant. Except, if there's a major overflow, it does not affect the people in Spencer. The more of an overflow, it will go down the Seven Mile River a mile and a half. It will go under the bridge along Shore Road into North Pond. And it will be at my house, because there are no houses along the river and I'm the first house on the pond.

And that's my first comment. My second comment is
a more emotional one and that is, that when the previous
owner of our house lived there, there was never a blue
green algae bloom. And in the first half of the
time that my wife and I have lived there, there wasn't one.

But, the amount of phosphorous has increased. And
there was a significant bloom there. Now, it's a bloom
almost every year. There was a significant blue green algae
bloom about five or six years ago. And it's well on the
record, the algae was not just on the surface, but it looked
like little loaves of bread floating on the surface. And it
was so severe that, I think -- I believe, it was the
Massachusetts Department of Health that tested 10 or 15
wells, including ours, because once again, the phosphorous
comes down the river and it comes to me.

And it was terrifying for all my neighbors, my
wife and I. We were afraid our dog would drink the water.
There was a warning placed on all the trees. And this was
directly caused by the increased phosphorous from the plant.
It's well documented. Thank you.

MR. WEBSTER: Thank you. Thank you for your
comments.

Is there anybody else that would like to make a
statement during the public hearing?

MR. DUFALUT: Yes.

MR. WEBSTER: Go ahead. Introduce yourself,
please.

MR. DUFALT: Excuse me?

MR. WEBSTER: Introduce yourself when you get up there for the stenographer.

MR. DUFALT: Yes. Larry Dufault, Spencer Board of Sewer Commissioner.

Not to be confrontational with you, Mr. Nielsen, but I grew up around a couple of lakes, not on them. And you know, 40, 50 years ago, I used to fish on that lake. It was bad then. You know, we'd put the boat in. We'd get out. We'd have to bring it back and scrub it down.

I have seen on that lake and many other lakes, what you have had over the past 50 years is camps that were being occupied for the weekend or whatever, and just for the summer, have now turned into McMansions everywhere. I have friends that have them.

So now, you're getting a lot more septage going in right from your septage systems. Charlton did a nice thing when they got their system around Glen Echo Lake. I don't know that they forced everybody there, but most people hooked into it. And that's a really clean lake today. It always has been though.

Another thing to look at increased phosphorous is not just your lake, but you've got Wickaboag, Whittemore, Cranberry Lake, Stiles, all those houses around there are
all on septic systems and where's it all going. It's going
down to your house.

So, it's, you know, not just us. We understand
our responsibility to the environment. But, at the same
time, a lot of this phosphorous increase is coming from just
so many more people being around these lakes year round.
You know, I've seen it.

That's all I really have to say. And I agree.
It's just -- there's a lot more people on these likes living
year round and they use a lot more water today than they did
in the past. So that is an issue. Thank you.

MR. WEBSTER: Thank you. Are there any other
comments on the permit that we have for the record?

Well, then, I would thank you for coming this
evening and your interest in the permit. There were a lot
of thoughtful and some very constructive comments to make
and to think about that. So, I appreciate that. Some of
the ideas and some of the reactions that you have from the
experience on the lake is useful. And we will considering
each one of those, and in the response to comments, try to
mull through whether those are things that we should be
changing in the permit or not.

Please remember, the public comment period ends at
midnight, March 28th. And you can still send in your
written comments or leave them off tonight.
With that I will close the public hearing at 6:00 o'clock -- no -- 7:00 o'clock. And thank you very much.

(Whereupon, at 7:00 p.m., the proceedings were concluded.)
CERTIFICATE OF REPORTER AND TRANSCRIBER

This is to certify that the attached proceedings in the Matter of:

RE: NPDES DISCHARGE PERMIT FOR
TOWN OF SPENCER WASTEWATER TREATMENT PLANT
SPENCER, MASSACHUSETTS
NPDES PERMIT NO. MA0100919

Place: Plymouth, Massachusetts
Date: March 26, 2018

were held as herein appears, and that this is the true, accurate and complete transcript prepared from the notes and/or recordings taken of the above entitled proceeding.

Maryann Rooney 03/26/18
Reporter Date

Maryann Rooney 04/20/18
Transcriber Date

APEX Reporting
(617) 269-2900