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Office of Ecosystem Protection
United States Environmental Protection Agency
5 Post Office Square-Suite 100
Boston, Massachusetts 02109-3912
Attn: Thelma Murphy

RE: Comments on the Draft Massachusetts North Coastal Small MS4 General Permit

Dear Ms. Murphy:

The City of Beverly is in receipt of the Draft Massachusetts North Coastal Small MS4 General Permit for stormwater management. This letter provides our comments for consideration when developing the final permit.

We recognize the importance of stormwater management to the environmental health of Massachusetts waterways and the maintenance of designated uses. With the Clean Water Act long focusing on point sources alone, we applaud the efforts of the Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MassDEP) over the last decade to incorporate non-point source pollutant reduction into the CWA regulatory program.

The regulatory agencies and the regulated communities share a common mission – to ensure the health and quality of our cities and towns and their natural resources. In order to accomplish these goals, environmental programs must be balanced with other needs and responsibilities of each community and implemented in a fashion that is both feasible and financially responsible. In this context, I offer the following comments on the Draft Permit:

Timeline for Completion of Permit Milestones

The Beverly City Council adopted a Stormwater Management and Construction Site Management Ordinance in May 2008. An element of this Ordinance is the establishment of a Stormwater Management Advisory Committee comprised of City personnel and a citizen representative. This committee has other responsibilities in addition to City Storm water issues. In view of these facts we find the Permit Milestones to be unrealistic.

- 120 days following EPA authorization
 - Submit the Stormwater Management Plan, including initial mapping, measurable goals for each BMP, milestones, timeframes, and measures of assessment
- Within 6 months of the effective date

- Inventory all permittee-owned facilities within the categories listed
- Develop an inventory of all floor drains within permittee-owned buildings
- Develop a program to rehabilitate infrastructure at municipal facilities as needed
- Begin quarterly inspections of all municipal facilities
- Within one year of the effective date
 - Submit a Stormwater Pollution Prevention Plan for all municipal facilities
 - Prepare written operations and maintenance procedures for municipal activities
 - Develop a protocol for the illicit discharge detection program and prioritize areas based on the data listed above
 - Inspect all stormwater structures on municipal properties annually
 - Begin distribution of public education materials to four identified audiences
 - Identify areas of inappropriate pet waste management
- Within two years of the effective date
 - Submit an inventory and priority ranking of MS4-owned property and infrastructure
 - Implement targeted management efforts for pet waste at identified locations
 - Submit a report assessing the current street design and parking lot guidelines
 - Distribute public educational materials about feeding waterfowl in targeted areas
 - Begin monitoring and sampling 25% of outfalls per year in both dry and wet weather
- Within three years of the effective date
 - Develop a report assessing existing local regulations to determine the feasibility of allowing or encouraging green infrastructure
- Within four years of the effective date
 - Complete investigations of 50% of the storm sewer catchments
- By the end of the permit cycle
 - Monitor and sample all outfalls in both dry and wet weather
 - Perform 48-hour damming tests on all key junction manholes
 - Distribute a minimum of eight public educational messages

Financial Burden to the City of Beverly

The Draft Permit requires sampling of the outfalls that discharge to the waters of the United States. The City of Beverly has 530 outfalls or endwalls and of this number we estimate about 257 discharge to waters of the United States based on the definition that a water of the United States is the ocean, major river, stream, wetland or pond. We have an estimate, from our consultant, to budget \$24,110 per year for laboratory tests (25% of the 257 outfalls, 2 samples per sampled outfall). Combined with the labor to collect samples, labor and consulting fees required to develop and distribute public education materials, to conduct site investigations, to develop mapping, to inventory and inspect municipal facilities, to inspect and enforce construction activities, to review site plans for proposed new development or redevelopment projects, and to develop and implement reports, policies and ordinances, the financial burden of the Draft Permit is excessive. In Section 1.10 c, “the permittee is encouraged to maintain an adequate funding source for the implementation of this program. Adequate funding means that a consistent source of revenue exists for the program.” With only 120 days from the permit’s effective date to develop the Stormwater Management Plan and commit to particular measures for implementation, there is not adequate time for funding to be secured. Furthermore, a “consistent source of revenue” implies a funding mechanism such as a stormwater utility assessing user fees. This type of program will require years to develop and implement, requiring multiple levels of

review, public involvement, public hearings and approval from the Beverly City Council.

Sweeping and/or Cleaning Streets, sidewalks and permittee-owned parking areas

Currently the City of Beverly sweeps all streets at least 2 times per year and commercial areas much more frequently. The requirement to sweep sidewalks twice a year ignores reality. To our knowledge a "Sidewalk Sweeper" does not exist.

Public Education Materials

For the required public education materials, having each community create their own language and graphics for brochures, websites, signs, etc. is an inefficient use of resources. Enough of the information on non-structural controls implementable by the public is generic and can be provided in a series of templates to communities. Similarly, for business and industrial user education, much of the information is generic and applies to all facilities. Specific recommendations regarding pet waste management, the use of alternative fertilizers, appropriate fertilizer application, and yard waste recycling, to name a few, are common to most locations. Templates could include areas where communities can input information specific to their locations. This would greatly reduce duplicate efforts and costs. The regulatory agencies should assume the responsibility to prepare this material for the North Coastal Watershed.

Ordinances and Policies

Similar to public education materials, the regulatory agencies should provide suggested language for ordinances and policies. The Draft Permit requires the development of a number of specific policies and procedures, including those relating to illicit discharges, construction oversight, new development reviews, and management of municipal facilities. Again, much of this information is generic and could be provided to communities as a range of templates. If the regulatory agencies provide only that language that has been reviewed from a legal perspective and is deemed appropriate and enforceable, this would further reduce the costs to the City.

Other Comments

The following is a list of other miscellaneous comments:

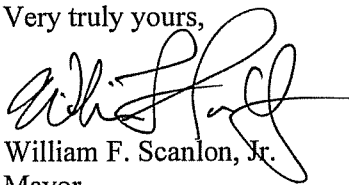
- The monitoring of 25% of outfalls each year in both wet and dry weather conditions is cumbersome, costly, and unreasonable. This should be lowered to a more achievable level, such as 10% per year, starting with known problem areas.
- Discharges to impaired waters is vague. EPA classifies Salem Sound as "Impaired Category 4c". About ⅓ of Beverly's MS4 drains to Salem Sound. Is the City subject to section 2.3.1.1 and if so who determines if discharges are increased?
- If a discharge causing an exceedance of a water quality standard is discovered, the community is instructed to fix it within 60 days or document in the SWMP an estimated timeframe to correct the problem. This implies that the SWMP is an evolving document with constant updates to the regulators. If this is the case, it should be clarified in the Draft Permit.

- The permit mentions that areas with sanitary sewers over 50 years old should be considered as having a high illicit discharge potential. In Beverly the majority of our sewer system is over 50 years old; therefore, the majority of the City would be a “high” potential. Defining the majority of the City as a high priority defeats the purpose of defining priority catchments. The City should be given the responsibility to define high priority areas and explain their logic.
- Section 5.1.5 states that “EPA or MassDEP may require the permittee to add, modify, repair, replace or change BMPs to other measures” at any time. This is open-ended and onerous. More specific allowances should be made for how long a community will be given to make changes if they are requested or required by the regulatory agencies.
- The requirements for good housekeeping and pollution prevention from municipal facilities all appear to be reasonable and achievable, with the exception of the following two provisions: 1) Investigating municipal buildings to identify all floor drains may be a challenging task, especially in a 6-month time frame, if large facilities such as school buildings and public meeting spaces are included; 2) The requirement to clean all catch basins when they are 50% full could require frequent cleaning of all catch basins in areas where deep sump basins have not yet been installed and may be excessive compared to the associated benefit. Furthermore, the inspection and cleaning of stormwater structures should be modified to be at the same frequency, allowing both to be performed at once.

In conclusion, while the City of Beverly agrees with the regulation of stormwater inputs to maintain high water quality, the Draft Permit as presented includes many requirements, which are not achievable and do not take into account time and budget constraints that affect cities and towns. The permit should be scaled back.

Thank you for considering these comments. Should you have any questions, please contact me at 978-921-6000.

Very truly yours,



William F. Scanlon, Jr.
Mayor

WFS/mal

cc: Senator Frederick E. Berry
State Representative Mary E. Grant
Tom Philbin, Massachusetts Municipal Association