

UNITED STATES OF AMERICA
ENVIRONMENTAL PROTECTION AGENCY
NEW ENGLAND REGIONAL OFFICE

In the matter of:

PUBLIC HEARING:

RE: NPDES MASSACHUSETTS SMALL MUNICIPAL
SEPARATE STORM SEWER SYSTEM (MS4) GENERAL PERMIT
NPDES PERMIT NOS. MAR041000, MAR042000 and MAR043000

Leominster Public Library
Leominster, Massachusetts

Thursday
November 19, 2014

The above entitled matter came on for hearing,
pursuant to Notice at 1:00 p.m.

BEFORE:

DAVID WEBSTER, Chief, Water Permits Branch
NEWTON TEDDER, Permit Writer
U. S. - Environmental Protection Agency
New England Region I
One Congress Street, Suite 1100
Boston, MA 02114

FREDERICK CIVIAN
Massachusetts Department of Environmental Protection

I N D E X

<u>PANEL:</u>	<u>PAGE</u>
David Webster	3
Frederick Civian	9
<u>SPEAKERS:</u>	<u>PAGE</u>
Paul Starratt	12
Jim Skillen	13
Bob Zimmerman	16
Betsy Frederick	18
John Woodsmall	21, 41
Alison Field-Juma	21
Patrick Herron	24
Martha Morgan	26
Heidi Ricci	29, 45
Aubrey Strause	32
Julia Blatt	34
Peter Coffin	36
Keith Saxon	38
Danielle Muccicirone	38
Isabel McCauley	41

P R O C E E D I N G S

(1:07 p.m.)

HEARING OFFICER WEBSTER: Good afternoon. My name is David Webster, and I'm the Chief of the Water Permits Branch of the New England Regional Office of the United States Environmental Protection Agency, also known as EPA Region 1. Co-chairing this public hearing with me is Frederick Civian from the Massachusetts Department of Environmental Protection, commonly referred to as MassDEP. Also joining me here this morning is Newton Tedder, the EPA Permit Writer for these permits which are the subject of this hearing.

This hearing, concerning the reissuance of the National Pollutant Discharge Elimination Systems, or NPDES, or "Nip-tees" general permits for stormwater discharges from small Municipal Separate Storm Sewer Systems, or MS4s, to certain waters of the state of Massachusetts, shall come to order.

A Municipal Separate Storm Sewer System, or MS4, is a conveyance or system of conveyances, including roads, drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, that are owned by a city, town, state, United States or other public entity that discharges stormwater to waters of the United States.

1 EPA Region 1 issued the current general permit for
2 stormwater discharges from small MS4s on May 1st 2003. That
3 permit expired on May 1st 2008. EPA previously released
4 two, draft general permits for small MS4s and certain
5 watersheds in Massachusetts on February 4th 2010 and March
6 18th 2010. EPA revised and combined the two previous draft
7 general permits and released a single draft general permit
8 for Massachusetts MS4s on September 30th 2014. The 2014
9 small MS4, draft general permit continues to apply to small
10 MS4s located in urbanized areas. The release of the 2010
11 census revised the universe of municipalities located in
12 urbanized area, and newly regulated municipalities are
13 subject to the 2014 draft permit. Other than the
14 newly-regulated urbanized areas, EPA Region 1, at this time,
15 has not designated any additional small MS4s requiring
16 coverage under this permit.

17 EPA Region 1 and the Commonwealth of Massachusetts
18 have proposed reissuance of three NPDES general permits for
19 stormwater discharges to the waters of the United States
20 from Municipal Separate Storm Sewer Systems, or MS4s, in
21 Massachusetts. The permit numbers for these three general
22 permits are MAR041000 for traditional cities and towns,
23 MAR042000 for non-traditional, state, federal, county and
24 other publicly owned systems, and MAR043000 for
25 non-traditional transportation systems. Thus, the permit

1 which is the subject of this hearing is actually three
2 separate general permits. Each general permit is applicable
3 to a particular set of entities within a geographic area,
4 the Commonwealth of Massachusetts. Since more of the permit
5 terms and conditions are identical across all three permits,
6 for simplicity's sake, I'll be referring to the three
7 general permits as "the draft, Massachusetts small MS4
8 general permit" or "the draft permit."

9 Each of these permits will be issued in final form
10 upon consideration of comments received during the Public
11 Comment Period, including those received during this public
12 hearing. In Massachusetts, typically EPA and MassDEP
13 jointly issue permits, as is proposed in this case.
14 Although each permit is a single document signed by both
15 agencies, legally each agency issues a permit under separate
16 federal and state authority, namely the Federal Clean Water
17 Act's National Pollutant Discharge Elimination System, or
18 NPDES, and the Massachusetts Clean Water Act's Surface Water
19 Discharge Permit Program.

20 The NPDES program issues permits to facilities
21 that discharge into waters of the United States. The permit
22 writer develops effluent limitations, best management
23 practices, monitoring requirements, reporting requirements
24 and eligibility requirements based on the information from
25 the facilities, federal regulations, state water quality

1 standards, technical guidance published by EPA and the
2 State, State and Federal Policy and other information. The
3 conditions in this draft permit were established pursuant to
4 the Clean Water Act Section 402(p)(3)(iii) to ensure that
5 pollutant discharges from small MS4s are reduced to the
6 maximum extent practicable, or MEP, protect water quality
7 and satisfy appropriate water quality requirements of the
8 Clean Water Act. The draft permit builds upon the
9 requirements of the previous small MS4 general permits
10 issued in 2003. This draft permit requires small MS4s to
11 continue to implement stormwater management programs
12 required by the 2003 permit, including the six minimum
13 control measures. This draft permit contains more specific
14 requirements and best management practices for each control
15 measure. Under the provisions of this draft permit, owners
16 and operators of small MS4s within urbanized areas that
17 discharge stormwater will be required to submit a notice of
18 intent, or NOI, to EPA Region 1 within 90 days of the final
19 effective date to be covered by the final general permit and
20 will receive a written notification from EPA of permit
21 coverage and authorization to discharge under the final
22 general permit.

23 EPA Region 1 released the 2014 draft,
24 Massachusetts small MS4 general permit on September 30th
25 2014 with a Notice of Availability published in the Federal

1 Register on September 30th 2014, as recorded at 79 FR 58774.
2 The public comment period ends on December 29th 2014. The
3 legal notice for this hearing was published in the Federal
4 Register on September 30th 2014.

5 Since September 30th, the draft Massachusetts
6 small MS4 permit, a fact sheet explaining the draft permit
7 with a brief summary of the basis of the draft permit
8 conditions and the supporting documents have been available
9 for interested parties to review and provide comments. The
10 draft general permit, appendices and fact sheet are
11 available at our website at
12 www.epa.gov/region1/npdes/stormwater/MS4_MA.html.

13 Today's hearing is an informal, non-adversarial
14 hearing providing interested parties with the opportunity to
15 make oral statements and to submit written comments on the
16 proposed permit. There will be no cross-examination of
17 either the panel or the commenters. Any questions directed
18 to a commenter from the panel will be for clarification
19 purposes only. This public hearing is being recorded. The
20 transcription will become part of the official
21 administrative record for the permit. However, in order to
22 ensure the record's accuracy, we highly recommend that you
23 submit written statements in addition to your comments made
24 this afternoon.

25 As previously mentioned, the public comment period

1 will close on December 29th 2014. Following the close of
2 the public comment period, EPA will review and consider all
3 comments received during the public comment period, both in
4 writing and at today's public hearing. EPA will prepare a
5 document known as a Response to Comments that will briefly
6 describe and address the significant issues raised during
7 the public comment period and what provisions, if any, of
8 the draft permit have been changed and the reasons for
9 changes. The Notice of Availability of the final, Mass.
10 small MS4 general permit and the response to comments will
11 be published in the Federal Register. In addition, Notice
12 of Availability of both the Response to Comments and the
13 final permit will be mailed or emailed to everyone who
14 commented on the draft permit as well as anybody that
15 included their email on the registration card you filled in
16 today. I say this in part to let you know you can still
17 fill out a registration card today and that if you do,
18 please include a clear and legible email address on the
19 card. The actual, complete, final, Massachusetts small MS4
20 general permit and the Response to Comments will be
21 available on EPA's website at the same address I previously
22 mentioned.

23 Under section 509(b) of the Clean Water Act,
24 judicial review of this general permit can be had by filing
25 a petition for review in the United States Court of Appeals

1 within 120 days after the permit is considered issued for
2 the purposes of judicial review. Under section 509(b)(2) of
3 the Clean Water Act, the requirements of this permit may be
4 by challenged later in civil or criminal proceedings to
5 enforce these requirements. In addition, this permit may
6 not be challenged in other agency proceedings.

7 My co-chair Frederick Civian from Massachusetts
8 DEP also has some opening remarks.

9 MR. CIVIAN: Good afternoon. My name is Frederick
10 Civian, and I represent the Massachusetts Department of
11 Environmental Protection. This is a joint public hearing
12 being held under the provisions of state as well as federal
13 laws and regulations, the Massachusetts Clean Water Act,
14 General Laws Chapter 21 Sections 26 to 43, Massachusetts
15 Regulations 314 CMR, 3.00 and 314 CMR 2.00, which prohibit
16 the discharge of pollutants to waters of the Commonwealth
17 unless authorized by a permit issued by the Department of
18 Environmental Protection.

19 The Department and the U.S. Environmental
20 Protection Agency New England Region 1 cooperatively and
21 jointly issue certain surface water discharge permits.
22 Jointly-issued permits are developed to conform to both
23 state and federal water pollution control laws and
24 regulations. Once jointly issued, each agency has the
25 independent right to enforce the terms and conditions of

1 this proposed general permit for municipal stormwater
2 discharges.

3 The Department will fully consider all written and
4 oral comments received at this hearing in addition to
5 written comments sent to EPA. The Department will determine
6 whether it will co-issue the MS4 permit after consideration
7 of those public comments.

8 The EPA has requested that the Department certify
9 the draft NPDES MS4 permit in accordance with the provisions
10 of Section 401(a)(1) of the Federal Clean Water Act and
11 pursuant to 40 CFR Section 124.55. This certification is a
12 determination that compliance with the terms of the permit
13 will meet state, water quality standards. No final decision
14 concerning certification will be made until all comments
15 received have been reviewed. The permit can be certified in
16 its current form or with specified additional state
17 certification requirements.

18 The Department of Environmental Protection
19 welcomes the opportunity at this hearing at this hearing to
20 hear any additional information that will assist the
21 Department in making decisions concerning the MS4 permit.
22 Thank you for your attention and contributions here today.

23 HEARING OFFICER WEBSTER: Thank you, Mr. Civian.

24 I'm going to begin. I would typically request the
25 comments from any elected officials. I don't see any on the

1 registration cards here, so we'll be using the registration
2 cards completed today to call people who wish to comment.
3 As I indicated previously, these registration cards will
4 also be used to notify people of subsequent, final permit
5 decisions.

6 So when I call you, I'm going to sit back down
7 there, and come on up to the podium and please identify
8 yourself and your affiliation, if you wish, for the record.
9 It looks like a manageable crowd, but to make sure that
10 everybody gets a chance to speak, I'd ask you to try to
11 limit your comments to about five minutes. Shorter is fine
12 also. If at any time you're asked to stop and you have not
13 finished, I will ask that you defer the remainder of your
14 comments until each person has an opportunity to comment.
15 Then, if there is time at the end of the afternoon, we will
16 give you a short opportunity to finish up your comments.

17 If you have a written statement, you may read it
18 if it's done within five minutes. If not, I'll ask you to
19 summarize the statement. In either case, I encourage you to
20 submit written statements tonight or before the close of the
21 public comment period on December 29th.

22 I haven't been at a public hearing where there
23 wasn't an opportunity at the end for anybody that hadn't
24 spoken to get up and make a statement as well, if you're
25 contemplating that in your mind. Okay, so with that, let's

1 begin and I'll call the first statement from Paul Starratt.

2 MR. STARRATT: Thank you. Paul Starratt.

3 S-T-A-R-R-A-T-T. Town Engineer for the Town of Westford and
4 a founding member of the Northern Middlesex Stormwater
5 Collaborative consisting of 13 communities. Since 2003,
6 I've had responsible charge for implementing the MS4 permit
7 at the municipal level, and I'd like to thank you, first of
8 all, for the efforts that you've made to protect our natural
9 resources. It's just barely in the envelope of my memory,
10 but I do remember the 70s, and apart from the oil prices, I
11 don't want to go back there ever again. You've done a great
12 job, and I do appreciate that.

13 A concern I have with the permit as it's written
14 now is what seems to be a drifting apart between the EPA and
15 DPA, and until such a time that DEP is delegated and has
16 that responsibility in Massachusetts, and I hope that that
17 day sometime comes, but until such day arrives, I'm hopeful
18 that that EPA will find a way to tie its requirements more
19 closely to the Stormwater Handbook that's issued by DEP.

20 Specifically when it comes to redevelopment, I
21 have a concern that there's going to be an inadvertent
22 consequence if the way the permit is written now, which has
23 the one-inch requirement, that developers are going to walk
24 away from opportunities to make improvements to, let's say,
25 a mill site or another site that they choose to redevelop.

1 And as long as there's a different between what the EPA's
2 requiring in this permit and what we are currently using in
3 the DEP standards, the 10 standards in particular, there are
4 going to be those types of conflicts. So it is my hope, in
5 summary, that the DEP and the EPA will find a way to combine
6 their efforts here in Massachusetts. Thanks.

7 HEARING OFFICER WEBSTER: Thank you very much.
8 I'd next call on Jim Skillen. Did I get that right?

9 MR. SKILLEN: Yes, sir. Good afternoon. My name
10 is Jim Skillen, and I'm a consultant for the Lawn and
11 Horticultural Products Workgroup, which is an association
12 out of Washington, D.C. We work under the auspices of the
13 Consumer Specialty Products Association. We provide a
14 uniform voice for the people that market products to the
15 lawn and horticultural industry. Our members manufacture
16 75% of the domestically-available fertilizer for the
17 specialty market, and we do support the Clean Water Act and
18 are very supportive of the MS4 program. We do however have
19 a significant issue with the EPA's proposal and the
20 reduction credit for the use of non-phosphorous or
21 phosphorous-free fertilizers or actually encouraging no
22 fertilization in some instances.

23 Our members register specialty products in all 50
24 states. These products have been formulated based on
25 research that's been done at land-grant universities over

1 the last 50 years, and the comments I'm making today are
2 going to be focused on our technical analysis on all of the
3 background information that is used to formulate the
4 reduction credit. We are working with Dr. Stewart Cohen of
5 Environmental Services.

6 I want to thank you, Newton, for helping us get
7 some of the background documents and saving us an additional
8 trip to Massachusetts, so we appreciate that.

9 Way back in 2009, President Obama issued an
10 executive order on scientific integrity, and it strongly
11 suggested that all agencies use peer-reviewed studies or
12 look to peer-reviewed literature, and that's a key point.

13 Our main point right now is that the reduction
14 credit of 50%, we can find no support for that reduction in
15 the published, peer-reviewed scientific literature available
16 in the United States, none whatsoever. We've looked at the
17 50% reduction credit that's in Table 21 of Attachment 1 of
18 the Fact Sheet, and that information, to our knowledge, was
19 gathered from a Schueler publication, Technical Bulletin No.
20 9, and if we look at that document, Schueler gets that
21 information and he references Appendix 2 of that
22 publication, page 79 in his document. Appendix 2 contains
23 five sentences, and it's based on a phone survey of use and
24 some other additional documentation but is not a
25 peer-reviewed study, it's never been published and it should

1 not be the basis for any work product produced by the United
2 States Environmental Protection Agency.

3 We don't believe there's any support for a 50%
4 reduction credit. There should actually, we believe, no
5 credit. We have access to peer-reviewed literature that is
6 published and available that actually shows that lawns
7 fertilized properly with phosphorous have less nutrient
8 losses than unfertilized turf grass and they also have less
9 runoff than unfertilized turf grass. That work is done by
10 Dr. Wayne Kussow at the University of Wisconsin Madison and
11 Dr. Brian Horgan at the University of Minnesota. That's
12 almost six years worth of data.

13 Minnesota was the first state in the United States
14 to restrict the use of phosphorous. I was there in 2004,
15 testified against that bill. That bill passed. Their
16 restrictions went in force January 1 of 2005. What we have
17 done is we have looked at all the watershed monitoring
18 information in the state of Minnesota and randomized the
19 USGS values for each watershed, specific watershed,
20 randomized those watersheds and selected eight watersheds in
21 the state of Minnesota, analyzed five years prior to the
22 restrictions going into place, five years after, and there
23 is essentially no difference. There is no discernible
24 difference after the restriction took place in the state of
25 Minnesota. In 2007, the state of Minnesota issued a report,

1 the Department of the Environment and the Department of Ag,
2 and their conclusion at that time was they could see no
3 difference due to the restriction.

4 So we are going to provide that detailed analysis
5 in our comments on December 29th. We thank you for the
6 opportunity to speak today, and I do have written comments
7 that are much more substantial than my oral comments. Thank
8 you very much for the opportunity to speak.

9 MR. CIVIAN: Thank you, Mr. Skillen.

10 HEARING OFFICER WEBSTER: Thank you, and you can
11 leave the written comments or you can send them in,
12 whatever's more convenient for you.

13 MR. SKILLEN: Okay, I'll hand them to you. There
14 you go.

15 HEARING OFFICER WEBSTER: Thank you.

16 MR. SKILLEN: Yes, sir.

17 HEARING OFFICER WEBSTER: I next call on Bob
18 Zimmerman.

19 MR. ZIMMERMAN: Hi, my name is Bob Zimmerman. I'm
20 the Executive Director of the Charles River Watershed
21 Association. Good to see you all. A few comments. First,
22 I'm glad to finally see this MS4 permit in draft. Second, I
23 would like to urge EPA and DEP to specifically include
24 language allowing for phosphorous trading, nutrient trading
25 and its methods for approaching this particular problem.

1 There are a number of reasons for that. Trading, first of
2 all, favors, putting green infrastructure in areas where
3 water in nature went back into the ground. It's not ledge,
4 it's not clay, it's not glacial till, it tends to favor
5 sandy loam and sand and gravel areas and the like, and
6 that's where nature expects the water to dive into the
7 ground.

8 Two, it can help with finances. We have been
9 constructing, as EPA and DEP are both aware, a software to
10 promote trading not only between regulated entities but
11 unregulated entities, and it would help towns actually meet
12 the requirements of the MS4 permits, reducing costs and
13 perhaps avoiding stormwater fees. However, trading does not
14 preclude the option for creating stormwater fees within town
15 boundaries. The two can actually work together.

16 And finally, given the political realities of the
17 world right now, it's not such a bad thing to use capitalism
18 to promote good environmental outcomes. Those kinds of
19 things tend to walk around guys like Jim Inhofe and Mitch
20 McConnell, guys you hear of occasionally when they talk
21 about climate change and the EPA.

22 The second thing I want to comment on is the
23 schedule. Perhaps this is also a function of political
24 realities, but 10 years is an awfully long time, and one
25 year to respond to comments is also an awfully long time.

1 I'm hopeful that we can perhaps reconsider, at least to move
2 away from planning before five years and move to actually
3 making some changes on the ground.

4 I appreciate the opportunity to make these
5 comments. We will, of course, be submitting written
6 comments, but I just wanted to bring these things up. Thank
7 you.

8 HEARING OFFICER WEBSTER: Thanks a lot. I'd next
9 call on Betsy Frederick.

10 MS. FREDERICK: Hi, my name is Betsy Frederick,
11 and I'm with Kleinfelder, an engineering consulting firm. I
12 have a couple of comments, only a few of which I'll mention
13 today. The rest will be provided to you as written
14 documents.

15 We're here sort of representing many of clients
16 that, obviously, are worried about the cost burden
17 associated with implementing all of the requirements of the
18 permit. A couple of those stand out particularly to us.

19 The first of those have to do with what appears to
20 be the assumption that this new draft has reduced the cost
21 burden of the wet weather monitoring associated with the
22 program. It's been sort of as we look through the permit,
23 it's our feeling that the threshold that's been established
24 as one or more of the vulnerability factors associated with
25 the catchment areas does not actually exclude very many of

1 the catchment areas associated with the most communities.
2 So you could in fact include almost a hundred percent of
3 those catchments on the basis of the one-or-more threshold.
4 So we're suggesting that you possibly take a look at that,
5 if the intent of this draft was to try to reduce that wet
6 weather monitoring burden on most communities.

7 Also, in terms of the cost assumptions that are
8 included, based on the Fact Sheet, it looks, it appears as
9 if the Charles River Planning Study was the basis for some
10 of the assumptions relative to the percentages allocated to
11 five percent for education, two percent for MCM-2 type of
12 thing, and there were some comments in the Fact Sheet that
13 implied that the incremental cost associated with the good
14 housekeeping measures indicated, the way it read, it implied
15 that the cost for most communities is buried in O&M anyway,
16 that's where they're already spending their dollars,
17 therefore any additional cost associated with the permit
18 would be only incremental in nature.

19 In fact, you know, obviously the major costs
20 associated with the O&M at this point has to do with data
21 collection and monitoring and recordkeeping and assessment,
22 which most communities don't do, and those particularly that
23 contract out many of these services for catch basin cleaning
24 or street sweeping, are going to be impacted by having to
25 negotiate contracts with contractors who are now asked to be

1 doing significantly more than just sweeping streets or
2 whatnot or adding labor associated with data collection
3 during the course of regular O&M. So I think the fact that
4 it's not really as incremental as you may assumed. This is
5 an assumption you might want to revisit.

6 Another major consideration that we have has to do
7 with the comments made earlier about the one-inch retention
8 and treatment. For a lot of communities, that could be a
9 significant challenge associated with road redevelopments,
10 increase in travel lanes, turning lanes, any impervious area
11 that's being developed. That responsibility could be
12 significant, so we'd ask you to potentially look at that in
13 terms of an exclusion.

14 Also to recognize the comment that was made
15 earlier, the differentiation between EPA and DEP, means that
16 that exclusion, even if it's provided in your next draft,
17 may not necessarily help many communities if the connection
18 between the water quality cert. and the states requirements
19 and the exclusions that might be provided in the federal
20 requirements are actually one and the same. If they're
21 relieved of one burden and not the other, they're obviously
22 still going to be held to that standard, so we'd like there
23 to be some correlation between the recognition between DEP
24 and EPA standards.

25 I think for the time being those are really the

1 largest concerns that we'd want to express here, and we'll
2 certainly be providing some written comments in the future.
3 Thanks very much for your attention.

4 MR. CIVIAN: Thank you, Ms. Frederick.

5 HEARING OFFICER WEBSTER: Thank you. I next call
6 on John Woodsmall.

7 MR. WOODSMALL: Pass.

8 HEARING OFFICER WEBSTER: Then I call on Alison
9 Field-Juma.

10 MS. FIELD-JUMA: Thank you very much. My name's
11 Alison Field-Juma. I'm the Executive Director of OARS,
12 which is the watershed organization for the Sudbury,
13 Assabet, and Concord Rivers, also known as the Concord
14 Basin. We've been running an EPA-certified water quality
15 sampling program for 22 years, so we've seen a lot of water
16 quality and problems with water quality, and we just have
17 really noted the unrelenting impact of stormwater on our
18 water quality, and we really anticipate that that can only
19 get worse because our intensity of precipitation is
20 increasing and we expect that that's projected also to
21 increase, and so more runoff, more polluted runoff and less
22 recharge are serious concerns.

23 What I wanted to mention is that, well, we're
24 pleased that the draft permit is out. We think it will make
25 a significant difference in reducing water quality

1 impairment, and it also does give quite a lot of extra time
2 to municipalities and flexibility to make the needed
3 investments. These are long-term investments, it needs to
4 be done right, and I think we all need to try to think more
5 long term in how we put these new systems in place.

6 So there are just a few requirements that I wanted
7 to highlight. First of all, illicit connections are a
8 tremendous problem. We're right now grappling with an
9 illicit discharge into the wild and scenic section of the
10 Assabet River, and we think it's really important that these
11 requirements are firm, they're prioritized, they're
12 investigated and illicit connections are eliminated.

13 Also that new development and redevelopment over
14 an acre should infiltrate the first inch of runoff. That's
15 the most polluted runoff. It's a tremendous concern in
16 terms of water quality, and in particular we're concerned,
17 where there are new developments or redevelopments where
18 there are many parcels, that the number of parcels not be
19 used to avoid the aerial determination of applicability of
20 this permit. We've seen a lot of parcels that fall just
21 under thresholds, and cumulatively they can have a pretty
22 big effect.

23 We're also concerned about salt. That's been
24 something that hasn't had much attention before. We're
25 really glad it's included here. It has a big impact on

1 aquatic life.

2 And we're also very much supportive of measures
3 that will control individual pollutants where there are
4 already specific water quality impairments due to those
5 pollutants. So, for example, bacteria or nutrients, others,
6 this is really important.

7 We also support the idea that municipal public
8 outreach should not just be to residents. It should also
9 target businesses, institutions and industries. Those can
10 have a major impact, and education is needed for them just
11 as much as it's needed for homeowners.

12 And lastly, we really encourage the feature of the
13 permit that would create more public involvement and public
14 access. Without an educated public, it's really hard for
15 municipalities to make the arguments for increased
16 expenditures and investment in infrastructure. The more the
17 public is on board with that, the better their luck will be.

18 So we thank you for proposing these significant
19 improvements, and we hope that you'll be able to act
20 quickly. We've spent a lot of time on this, and the
21 climate's not in our favor right now, so we hope that you'll
22 be able to move forward quickly. Thank you.

23 MR. CIVIAN: Thank you.

24 HEARING OFFICER WEBSTER: Thank you. Patrick
25 Herron.

1 MR. HERRON: Good afternoon. My name is Patrick
2 Herron. I'm the Deputy Director of the Mystic River
3 Watershed Association. The Mystic River watershed is a
4 highly urbanized watershed draining into Boston Harbor.
5 Through programs like OARS has, we've been documenting water
6 quality for about 15 years using EPA- and DEP-approved QAPPs
7 to get that work done, and our work has shown that our
8 watershed's been contaminated for 20 years. It's not
9 changing very quickly. It's polluted on days when it rains,
10 as most of you would expect, but it's also quite
11 contaminated on days when it's dry. There's actually quite
12 a bit of sewage that is making it into the river on dry days
13 as well.

14 So I'm here today on behalf of our organization,
15 our members, to express support for the work that EPA and
16 DEP have engaged in during the past five to 10 years to
17 bring this permit to light and to express support for that
18 program and encouragement to shorten the time lines in terms
19 of when it will come into effect. We strongly believe this
20 permit will have a positive impact on water quality and
21 opportunities for recreation and economic value within the
22 watershed.

23 I wanted to highlight a few aspects of this permit
24 that hold particular value for bringing about those changes
25 in our watershed, and the first one is the requirement to

1 address illicit connections. As I mentioned, the screening
2 and investigation that is required in this permit will have
3 a big impact. We feel that conditions have been documented
4 in our watershed for many years without much requirement to
5 address those, and I think this permit will make progress in
6 that area.

7 The time lines are reasonable, given the dates
8 provided in this permit, but also that many of these
9 requirements have been telegraphed since 2010 with
10 reductions in the wet weather permit -- wet weather
11 requirements.

12 The second issue I wanted to -- or positive aspect
13 of this permit that I think will impact our watershed in a
14 positive way is the requirement to infiltrate the first inch
15 on parcels greater than one acre in development and
16 redevelopment. Quite frankly, for a watershed like ours
17 with impacts of stormwater and sewage, this is the only path
18 forward. We don't have a TMDL in our watershed, and
19 ordinances throughout our municipalities are not currently
20 requiring any treatment of storm water. So the inclusion of
21 this in the permit actually holds some hope in our watershed
22 that during the next 10 years we might see some modest
23 reductions in these pollutants coming off of the surface.
24 Many of our communities are 50% impervious or up to 80%
25 impervious in communities like Chelsea.

1 The cost of this work in context of development
2 and redevelopment is reasonable considering the economic
3 incentives for people to redevelop properties, and I think
4 that that requirement also reduces the burden in the long
5 term for municipalities to address these pollutants as we go
6 forward.

7 Our organization will be submitting additional
8 comments for all kinds of technical aspects where we both
9 support and have suggestions. But I think the big message
10 that we wanted to get out today is our support for the work
11 the EPA and DEP has performed to get to this date and we're
12 really excited to see it move forward, and we would echo
13 Mr. Zimmerman's comment that we would really appreciate an
14 acceleration of that time line to make it less than the year
15 and begin this work. Thank you very much for the
16 opportunity to comment.

17 MR. CIVIAN: Thank you, Mr. Herron.

18 HEARING OFFICER WEBSTER: Thank you. Martha
19 Morgan.

20 MS. MORGAN: I'm Martha Morgan with the Nashua
21 River Watershed Association. I'm the Water Programs
22 Director there, and I echo the sentiments of the previous
23 speakers of other watershed groups.

24 The Nashua River Watershed Association represents
25 25 communities in North Central Massachusetts, and our

1 mission is to work for clean water and open space that's
2 beneficial to both humans and wildlife, where people work
3 together to sustain a mutual economic and environmental
4 well-being.

5 And I'm here to support the draft MS4 permit and
6 the efforts of the EPA and the DEP and the measures it would
7 provide to ameliorate the effects of stormwater runoff to
8 the rivers and streams in our watershed. The data collected
9 by our organization right here in town, Leominster,
10 Fitchburg, over the last 20 years, plus-20 years, provides
11 incontrovertible evidence of the effects of stormwater
12 runoff.

13 Our data routinely show that bacteria
14 concentrations exceed standards for swimming and boating
15 after a rain storm. The NRWA routinely advises those who
16 wish to swim in the river to delay for at least three days
17 after a rainstorm. We know that 40 years ago, people
18 weren't swimming in the Nashua River, but we see the
19 increase -- These permits will help to increase the quality
20 of the water so people can return to doing those kind of
21 recreational opportunities that they had in the past.

22 So the bacteria's only one of the myriad of
23 pollutants that make its way into our rivers. So we support
24 the illicit detection requirements. We have a strong
25 collaboration with both the cities of Leominster and

1 Fitchburg in the past to work on illicit detection. We've
2 been doing it just this year in Leominster, and we think
3 this would help not only the stormwater but also the dry
4 weather issues that are going on when we have illicit
5 detection. The proposed MS4 general permit would also
6 result in reductions in runoff and, in turn, result in
7 marked improvements to things like phosphorous.

8 NRWA understands municipalities are concerned
9 about the cost of the permit requirements. Regional
10 stormwater coalitions, such as the Central Massachusetts
11 Regional Stormwater Coalition that represents over 30 towns,
12 can help to offset those costs by sharing resources.
13 Watershed organizations, such as the NRWA, can work with
14 these towns to reduce the cost, especially with regard to
15 education and outreach to the public and businesses about
16 stormwater and the needs to, you know, support this permit
17 and take care of the runoff that is happening to our streams
18 and rivers. Establishment of a stormwater utility, while
19 not ideal for every town, would help to cover the cost of
20 stormwater management.

21 Finally, private development has never before been
22 required to contribute to the cost of maintaining the storm
23 drainage systems. Municipalities will benefit from the
24 requirement that new development and redevelopment of
25 properties over an acre contribute to the cost of stormwater

1 management by infiltrating the first one inch of runoff from
2 their properties, the most polluted part of the runoff that
3 we see coming into the streams, the very first one inch.

4 So NRWA urges that the EPA finalize the permit
5 without delay, hopefully within, before a year from now, and
6 we thank you for the opportunity to comment and I will be
7 submitting written comments as well.

8 MR. CIVIAN: Thank you.

9 HEARING OFFICER WEBSTER: Thank you. Heidi Ricci.

10 MS. RICCI: Good afternoon. My name's Heidi
11 Ricci. I work for Mass Audubon in the Advocacy Department,
12 and we also have a program called Shaping the Future of Your
13 Community, and we're working with communities across
14 Massachusetts, particularly in the most rapidly developing
15 areas to help them develop in ways that are more sustainable
16 and that benefit both people and nature.

17 Clean water is essential to both people and
18 wildlife, as we all know, and stormwater is the single
19 largest source of pollution that we encounter here in
20 Massachusetts. So we recognize that it's very difficult and
21 complex to clean up this stormwater pollution, but we feel
22 that it is essential to establish a clear path for doing
23 that, and we thank the EPA and DEP for working on this and
24 for issuing the draft permit and we hope that, as others
25 have mentioned, that it can be done expeditiously and sooner

1 rather than later. We think that it's really important to
2 make progress, not only on cleaning up existing stormwater
3 pollution but also establishing programs within our cities
4 and towns so that all new and redevelopment really
5 contributes to the solution rather than making the problem
6 bigger and more expensive to deal with.

7 We'll submit detailed, written comments. Overall,
8 we support the permit, and we believe it provides a clear
9 and reasonable structure for proceeding with this issue. We
10 recognize that there's a lot of time and flexibility built
11 in here for municipalities.

12 I know that there's a lot of concern about the
13 cost. I hope that as you consider comments and any
14 refinements to the permits, you can focus on ensuring that
15 costs go as much as possible towards actions on the ground
16 that will actually improve the situation. I know that
17 planning and monitoring is really important too, but if
18 communities are overwhelmed with those requirements and that
19 just draws out further into future any action, that's not
20 going to be helpful either, so there needs to be a balance
21 there.

22 We're glad you see low-impact development in the
23 draft permit. We would like to see an even greater emphasis
24 on that, and this applies beyond just site-specific
25 techniques, like bioretention. It applies more broadly to

1 the entire way that communities deal with their land use.
2 Through our Losing Ground reports on land use, we've
3 documented over the past several decades in Massachusetts
4 that even though it's slow, there still is a continuing
5 pattern basically of sprawl. Communities can build in a
6 more compact, efficient fashion that preserves our natural
7 green infrastructure, our forests, our wetlands, wetland
8 buffers, naturally vegetated wetland buffers. These areas
9 absorb precipitation and clean it and allow it to filter
10 back into the ground. The fewer road miles that we build,
11 the fewer new pipes and outfalls, the less that we will have
12 to pay to manage those systems, and then even within sites
13 to the extent that the water can be kept on site through
14 site-specific, LID practices, again, on some sites where
15 soils are appropriate, you won't even have to have new
16 outfalls to manage.

17 Retrofitting within existing developed and
18 urbanized areas is also very important and has many benefits
19 beyond just cleaning up stormwater, and we've seen this here
20 in Massachusetts and in cities across the country that are
21 really focusing on planting trees and doing other things to
22 green the cities, to reduce the urban heat island effect, to
23 make their communities more attractive. There are many
24 economic benefits to these things. So there are some cost
25 effective measures that can have multiple benefits, and we

1 really hope that the final permit will encourage that as
2 much as possible. Thank you.

3 HEARING OFFICER WEBSTER: Thank you.

4 MR. CIVIAN: Thanks, Ms. Ricci.

5 HEARING OFFICER WEBSTER: Aubrey Strause.

6 MS. STRAUSE: Hello, I'm Aubrey Strause. I am the
7 owner of Verdant Water Consulting Firm, and I'm also one of
8 the co-facilitators of the Central Mass. Regional Stormwater
9 Coalition, which was mentioned earlier. That group is 28
10 communities ranging from Wilbraham in the west to Hopkinton
11 in the east, and I'm really happy to see so many of our
12 towns are here with us today.

13 I would like to make it clear that I am not
14 speaking on behalf of the coalition right now. We do intend
15 to submit written comments, and we're still working on those
16 in coordination with some of the other stormwater
17 coalitions. However, I felt that today was a really good
18 opportunity to mention a challenge that has come up at
19 several of our coalition steering committee meetings,
20 partially to plant a seed with other people who are in
21 attendance and partially to issue a sort of challenge to EPA
22 over the next few months, and the challenge relates to
23 illicit discharge detection and elimination, IDDE
24 specifically. I think it's certain when we look at the
25 permit that the overarching goal of IDDE hasn't changed.

1 What has changed is the level, as Betsy mentioned,
2 of documentation, of written plans and procedures, of
3 coordination and reporting that go along with it. All of
4 those are great, but what's going to be happening with the
5 new permit is it's going to require an increased level of
6 coordination between town departments that haven't had to
7 really do that yet. It's not just going to be Public Works
8 or Highway. You're now bringing in other groups, ConCom to
9 a greater extent than currently, Planning Boards to a
10 greater extent than currently, but even beyond that, school
11 districts, which probably are not engaged right now, Sewer
12 Departments, which probably aren't that engaged right now,
13 Housing Authorities that are in some of these communities,
14 Water Districts, sometimes Fire Departments. And that's
15 fine, you know, that's maybe how it has to be.

16 Something that I noticed has been happening in the
17 last few weeks and over the last month, Newton and Thelma
18 have done some great outreach, presentations, and lots of
19 our members have been to them, I suspect lots of people in
20 this room have, but the audience at those presentations are
21 mostly the DPW Directors, the Town Engineers, the Highway
22 Departments. You're not getting some of these other
23 entities that now have to be swept in.

24 So the challenge is or what I would ask you to do
25 is think if there is a way that EPA can help do some

1 additional focused outreach to the entities that make those
2 different departments and town departments and organizations
3 work together, that is, the Town Administrators, the Town
4 Managers, the Boards of Selectmen. Those are the executives
5 in our municipalities that can not only direct those groups
6 to work together very closely but also help secure the
7 funding that's going to make that happen. It's one thing to
8 say, "You guys have to do all these things," but it's
9 another thing for our members to come to our meetings and
10 then have to go back to their communities where they don't
11 have the support from those executives. So I would see if
12 or I would encourage EPA to see if there is a forum where
13 you can talk more to the Town Administrators, the Town
14 Managers, the Boards of Selectmen about what's coming, what
15 their role will be driving these changes in the communities
16 and that that conversation can't start with "Form a
17 stormwater utility," it has to be "How can you support your
18 staff, and here's what we're asking them to do."

19 Thank you very much.

20 MR. CIVIAN: Thank you, Ms. Strause.

21 HEARING OFFICER WEBSTER: Thank you. Julia Blatt.

22 MS. BLATT: Hi. Good afternoon. I'm Julia Blatt.

23 I'm the Executive Director of the Massachusetts Rivers
24 Alliance. We are a membership organization comprised of 56
25 environmental organizations and almost 500 individuals

1 across the Commonwealth, and our organizations share a
2 mission to protect and restore the state's rivers and
3 streams, and several of our organizations are also
4 represented here today and have spoken very eloquently for
5 themselves.

6 We also support the draft permit because more than
7 half the rivers in our state fail to meet water quality
8 standards due to stormwater pollution, and this issue is of
9 course particularly important in urban areas and in Eastern
10 Massachusetts where most of our members live and most people
11 in Massachusetts live, but it affects the entire state. As
12 you've heard, the effects of the failure to manage
13 stormwater are evident in beach closures and loss of
14 summertime water recreation, damage to wildlife and rivers
15 and streams and exacerbated problems from both floods and
16 droughts.

17 We know this is a very difficult issue, so we want
18 to thank you, DEP and EPA, for once again wading into the
19 fray with a new permit. We feel that you have been
20 responsive to people's concerns, and we see that this time
21 around there are longer compliance times and more
22 flexibility than the last draft. But we do believe that
23 this will eventually result in significant reductions in
24 water pollution around the state.

25 Like our colleagues, we urge you to get the final

1 permit out as soon as you can, and we do have also
2 suggestions for clarification and improvement, and I have my
3 list of things that we like, but they're very similar to
4 things you've heard, so maybe I'll spare you the same list,
5 unless you'd like to hear it again, similar to Alison
6 Field-Juma and Martha and Peter, so, anyways, so why don't
7 we skip that part. You'll get it in writing, and thank you
8 again for holding the hearing, and thanks to my colleagues
9 for coming and weighing in.

10 HEARING OFFICER WEBSTER: Thank you, Ms. Blatt.
11 Peter Coffin.

12 MR. COFFIN: Hello, I'm Peter Coffin, the
13 Coordinator of the Blackstone River Coalition. A lot of
14 time and effort has been spent studying the Blackstone
15 River, the Blackstone River Initiative in the '90s. Looking
16 at both point and non-point, all the sources, we've known
17 for 30 years now it's been majorly impacted.

18 Kudos to EPA for finally getting the treatment
19 plant and nutrient numeric standards. The health of the
20 river is going to be a lot better because of that, and we're
21 seeing improvements. The bad news is that's not going to be
22 good enough, as we all have found out from the extensive
23 models performed by Camp Dresser and McKee, UMass Amherst,
24 how much is due to, just talking about the nutrients, how
25 much is due to point sources, i.e. treatment plants, or

1 non-point source. Well, with the new standards, it's going
2 to be non-point source going away by a big shot. How do you
3 implement that?

4 Well, let me just say we strongly support getting
5 the permit out, and it does need to go out in a timely
6 manner, and I would say time is of the essence for getting
7 this permit out, not just because what it will do, but it
8 will result in a better performance for the permit that's
9 already out there that is not getting enforced that in many
10 cases work is not getting done, and it's because they're
11 just waiting for consensus and more work.

12 So until the next level's out, we're not even
13 going to get the first level done, which goes to my second
14 point, which is the need for co-issuance of this permit from
15 both EPA and the state. If we want to make this effective
16 and achieve it, we've got to bring in all the Boards. How
17 do you get the ConCom on board? Only if the state issues
18 it, then the ConCom can feel, "All right, now it's our
19 authority." How do you get the Board of Selectmen on? How
20 do get the FinCom? You need the local people to support it.
21 They've got to be responsible for it. There's got to be a
22 clear message from both EPA and the state, to me, that's a
23 no-brain, and EPA enforcing the current.

24 Thank you for getting the permits on the website
25 so at least you can see the reports and the annual reports.

1 The transparency needed and to allow local groups like
2 ourselves to push for better performance requires
3 transparency.

4 The last point, I guess, is thank you for focusing
5 on phosphorous, being specific. Earlier speakers said, 'Oh,
6 well, Minnesota doesn't see improvements in the river.'
7 Yeah, we're not going to necessarily see improvements in the
8 Blackstone, because there's so much source there now
9 historically grandfathered that we have to start limiting
10 what's coming in and give it a chance to clean itself. So
11 we will submit further comments, but thank you for your
12 time.

13 MR. CIVIAN: Thank you, Mr. Coffin.

14 HEARING OFFICER WEBSTER: Thank you. Keith Saxon.

15 MR. SAXON: I'll pass.

16 HEARING OFFICER WEBSTER: That's all that I have
17 that said definite. I'll read a few names, but they were
18 maybe, so feel comfortable making a statement or not.
19 Danielle Muccicirone.

20 MS. MUCCICIRONE: I'm here.

21 HEARING OFFICER WEBSTER: Do you want to speak?

22 MS. MUCCICIRONE: Hi, my name's Danielle
23 Muccicirone. I work with the Northern Middlesex Stormwater
24 Collaborative, and similar to Aubrey, I'm not necessarily
25 speaking on behalf of any of the towns, but I wanted to

1 provide an overview of some of our main concerns with the
2 permit, and a lot has actually been discussed, so I'm going
3 to kind of summarize it.

4 We have 10, existing MS4 communities and three,
5 new MS4 communities, and we're all working together to meet
6 the terms of the permit. I know for some of the new
7 communities, in particular, it seems like it's a long time
8 for compliance, but they really feel like more time may be
9 needed to catch up because they haven't been included in the
10 first round of the permit.

11 We also have outlined a couple of the requirements
12 that, similar to what others have said, seem to be the most
13 burdensome to the communities. Those include some of the
14 TMDL calculating and reporting requirements, catch basin,
15 some of the catch basin reporting requirements, the IDDE
16 program and the one-inch requirement for redevelopment. A
17 lot of areas in our communities may be older and may be
18 wanting to be redeveloped, and we want to make sure that
19 that is encouraged as opposed to encouraging new
20 development. So if a redevelopment site can't meet the
21 one-inch standard, what's going to happen? We want to make
22 sure that they can encourage that type of growth instead of
23 an area that's currently open space.

24 So, in general, our comments are probably going to
25 focus on, where needed, increased time frame for compliance

1 and reporting. We also may make recommendations for
2 decreased reporting requirements, the same as others have
3 said, because the cost is going to be so great to these
4 municipalities. We really want to make sure that the cost
5 is spent on those parts that are really going to improve
6 water quality. So some of the possibly evaluation
7 components of the permit, if it's not directly correlated to
8 a water quality improvement, that's something we'll be
9 advocating for so that these municipalities can really focus
10 on the areas that have the most bang for their buck in terms
11 of water quality improvement.

12 And I will say that, I didn't say this at the
13 beginning, but obviously everyone agrees with the premise
14 and agrees with clean water and agrees with keeping sewage
15 out of our rivers and streams, nobody wants that, and
16 everybody wants to do the best that they can for the least
17 cost for the communities.

18 In addition, any increase in technical support,
19 specifically for meeting TMDL requirements and maybe system
20 optimization in terms of where we can place the TMDLs for
21 the least cost would also be very helpful.

22 Other than that, most of our main concerns have
23 already been discussed. Thank you.

24 MR. CIVIAN: Thank you.

25 HEARING OFFICER WEBSTER: Thank you very much,

1 Ms. Muccicirone. Isabel McCauley. Do you wish to speak?

2 MS. MCCAULEY: No.

3 HEARING OFFICER WEBSTER: Okay. Brendan O'Regan,
4 do you wish to speak? Here still?

5 MS. VERGARA: He left.

6 HEARING OFFICER WEBSTER: Okay. That comes to
7 everybody that indicated they would or might want to speak,
8 so at this time, this is an opportunity for anybody that has
9 not spoken already. Why don't you raise your hand, if
10 you're interested, or stand up. Come on up, introduce
11 yourself and your affiliation.

12 MR. WOODSMALL: Good afternoon. John Woodsmall,
13 Director of Public Works for the Town of Holden. Holden is
14 one of the regulated communities here in Worcester County,
15 and we are also one of the original 13 members of the
16 Central Mass. Stormwater Coalition.

17 HEARING OFFICER WEBSTER: Before you get going,
18 could you spell your name since we don't have it written
19 down?

20 MR. WOODSMALL: Sure. W-O-O-D-S-M-A-L-L.

21 In general, I'd like to echo some of the comments
22 about the permit, there being a mismatch between current DEP
23 requirements and proposed EPA requirements. From the aspect
24 that in my experience a lot of the good stormwater bylaws
25 and regulations that are in effect in our towns reference

1 complying with the DEP stormwater standards as being the
2 good management practices to be used for new and
3 redevelopment practices and, because of the way local
4 control works in Massachusetts and our communities, we have
5 a number of different boards and groups that are responsible
6 for overseeing development in the cities and towns. You
7 have a Zoning Board, you have a Planning Board, you have a
8 Conservation Commission, you may have a Board of Selectmen
9 acting as Stormwater Commissioners, or things like that or
10 underneath the Earthworks Bylaw. So there are a number of
11 regulatory bodies within each municipality that deals with
12 development.

13 When done correctly, each of those bylaws and
14 rules and reg's should reference a common set of standards,
15 and the ones I've seen have done in reference back to the
16 stormwater standards. By the EPA applying a standard that's
17 different from that stormwater standard without DEP changing
18 their standard, it's a bureaucratic nightmare, essentially,
19 to then go back to each of these individual boards and
20 commissions and get them to revise their practices to meet
21 these new standards when the common picture in the state has
22 been, since 2008, I mean I know that would be before that,
23 but particular since 2008, I feel, the stormwater standards.
24 So anything that can be done to meld those two will ease the
25 implementation of the new permit, wherever those standards

1 end up being.

2 I think there needs to be a clarification about
3 how redevelopment is going to be applied, the one-inch
4 runoff rule for redevelopment, whether that just applies to
5 the actual portion of a site that's being redeveloped or a
6 whole site that a redevelopment is just a portion of.
7 Certainly, retrofitting existing facilities is a great goal.
8 There's a great expense related to that, and there's going
9 to be economic considerations if whole sites have to be
10 retrofitted versus just areas of redevelopment. Again,
11 that's a conflict with the current DEP standards.

12 One of my concerns is with public education.
13 Stormwater is just one facet of the environmental knowledge
14 of society, and we're just small cities and towns who do not
15 have sophisticated public relations groups. As the
16 coalition, we certainly have teamed together to create
17 common messages and to reduce those costs. I'm just
18 concerned about the overall ability of all the cities and
19 towns to try to education stormwater. It's more of a
20 nationwide, statewide, societal issue that the burden of
21 trying to educate people and facilities about it is placed
22 on the small cities and towns, which is just unrealistic.
23 Expecting us to measure how effective our messages are is a
24 rather broadly written statement and it needs to be either
25 removed or further clarified as to how EPA expects cities

1 and towns to measure the effectiveness of our stormwater
2 pamphlets that we hand out or our community cable TV program
3 that runs several hours a week.

4 Most of these cities and towns are struggling to
5 fund basic operating departments. We have cities and towns
6 that have their town halls closed three days a week and who
7 are actively laying off teachers, and as people in the
8 municipal departments would then have to go forward and
9 argue for additional funding for stormwater against those
10 things, it's very hard for us to do. It's not that we don't
11 want to do it. We're responsible, you know, as the
12 Department of Public Works, we're responsible for parks,
13 streams, drinking water, sewage. We want clean water. It's
14 hard to put the burden on us to raise that consciousness of
15 everybody else. Thank you.

16 MR. CIVIAN: Thank you, Mr. Woodsmall.

17 HEARING OFFICER WEBSTER: Is there anybody else
18 that has not had any opportunity to speak that you like to
19 make a public comment for the record during the hearing? If
20 not, I would thank you all for coming and your interest in
21 the permit. Certainly, thanks not only for coming but,
22 seeing all the practitioners that we have out here, thank
23 you for all the work you've done for environmental
24 protection. You've given us a lot of comments on a lot of
25 perspectives and aspects of the permit.

1 As a reminder, the draft general permits, the
2 appendices and fact sheets are available at our website, and
3 also please remember the public comment period ends December
4 29th 2014 and you can send in written comments up to that
5 time. We, again, will stick around and informally talk
6 with, you know, anybody on topics as soon as this closes,
7 but at this point at 2:15, I'll close the public hearing.

8 MS. RICCI: Is there time for me to add an
9 addendum to my comments, since we're not over time.

10 HEARING OFFICER WEBSTER: Okay.

11 MS. RICCI: It would be quick.

12 HEARING OFFICER WEBSTER: I'm going to reopen the
13 public hearing.

14 MS. RICCI: I'm sorry.

15 (Laughter)

16 THE REPORTER: We're still on the record.

17 HEARING OFFICER WEBSTER: Go ahead.

18 MR. CIVIAN: Just in time.

19 HEARING OFFICER WEBSTER: Re-open for an
20 additional comment.

21 MS. RICCI: Heidi Ricci, Mass Audubon. I just
22 wanted to comment quickly on this issue about being the DEP
23 standards in line with EPA, and I raised that yesterday at
24 another meeting with the folks from Wetlands and Waterways
25 about the wetland regulations.

1 The longstanding issue that if somebody's building
2 in upland and the entire site is outside of the Wetlands
3 Protection Act jurisdiction, where the work is occurring,
4 they can build new impervious surfaces and have those drain
5 downhill into drains that go into the MS4 system and then
6 outlet somewhere at a wetland without having to comply with
7 the DEP stormwater standards, because the stormwater
8 standards only apply if you're within wetlands jurisdiction.
9 The other representative of DEP reminded me again yesterday
10 that really DEP doesn't have any jurisdiction to require
11 Conservation Commissions to do anything about those projects
12 that are being built only in upland, outside of wetlands
13 jurisdiction, unless it's an after-the-fact, like erosion.
14 So, you know, you have to work within the existing laws, and
15 I hope that EPA will continue to capture all stormwater
16 runoff, regardless of where the development takes place.

17 MR. CIVIAN: Thank you.

18 HEARING OFFICER WEBSTER: Thank you. Okay, with
19 that, at 2:17, I'm going to close the public hearing because
20 I don't want to get into that, but we're happy to answer
21 that. Thank you. Close.

22 (Whereupon, at 2:17 p.m., the hearing was
23 concluded.)

24

CERTIFICATE OF REPORTER AND TRANSCRIBER

This is to certify that the attached proceedings
before: U.S. ENVIRONMENTAL PROTECTION AGENCY
in the Matter of:

RE: NPDES DISCHARGE PERMIT FOR
SEPARATE STORM SEWER SYSTEM (MS4) GENERAL PERMIT
NPDES PERMIT NOS. MAR041000, MAR042000 and MAR043000

Place: Leominster, Massachusetts

Date: November 19, 2014

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.

T. Omar 11/19/14
Reporter Date

T. Omar 12/11/14
Transcriber Date