From: Joshua Hall
To: Vuto, Michelle
Cc: Nick Cristofori; Patrick Haley
Subject: FW: Comments to Westminster"s MS4 NOI
Date: Friday, March 22, 2019 9:01:30 AM
Attachments: Westminster MS4 NOI, Signed with Attachments.pdf

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Michelle,

Good morning. In response to the NOI comments, the Town of Westminster offers the following response:

1. Please attach the outfall map required under the 2003 permit. Attached please find the original NOI with appropriate attachments as submitted to EPA on 9/26/2018 which includes an outfall map. In order to facilitate easier public review, it is recommended that EPA host the entire NOI and all attachments for download on its website. Although NOIs from several other communities appear to contain all relevant attachments, it appears that the .pdf uploaded for Westminster erroneously removed the stormwater map.
2. Are all waterbodies/outfalls accounted for in the receiving waters list (e.g. Burntmill Brook/swamp surrounding the brook)? If not, please list any missing waterbodies. As noted in Part II of the NOI, communities must "list the waterbody segments to which your MS4 discharges". The waterbodies listed in Part II of the NOI outline all receiving waterbodies with known outfalls. It is possible that additional waterbodies are present within Westminster, however do not receive any known discharges. Similarly, it is possible that outfalls do not discharge to, or nearby to, a waterbody, hence what could be some of the discrepancy. Specifically regarding Burntmill Brook, this waterbody was listed as "unnamed stream from Tophet Swamp to Round Meadow Pond" in Part II of the NOI (9 outfalls total). Tophet Swamp is located roughly between State Road West and West Main Street on the figure provided on page 1 of the NOI comment letter. As Burntmill Brook is not listed on the 303d list (or in MassGIS databases I believe), there appears to be some ambiguity in the name of this particular reach. Scenic Drive and Fenno Drive also discharge to the same waterbody, however note that not all of these roadways are located within the urbanized area.
3. Please attach the IPaC results along with USFWS correspondence if applicable. Is the ESA designation criterion B? Attached please find the original NOI with appropriate attachments as submitted to EPA on 9/26/2018 which includes ESA designation criteria documenting compliance with Criterion B. In order to facilitate easier public review, it is recommended that EPA host the entire NOI and all attachments for download on its website. Although NOIs from several other communities appear to contain all relevant attachments, it appears that the .pdf uploaded for Westminster erroneously removed the endangered species information.
4. Do current town bylaws/regulations meet the construction/erosion and sediment control practice requirements as required by the 2003 permit? The Town has a combination of regulatory mechanisms, including earth disturbance, site plan review, subdivision regulations, Low Impact Development bylaw, and wetlands protection bylaw with components designed to target erosion and sediment controls during construction. These regulatory mechanisms have been enacted as far back as 2005 in response to the 2003 permit and other environmental protection needs of the Town, with some of them having also been updated since that time. After adopting these regulatory mechanisms, Westminster felt that they met

the 2003 permit requirements as pertains to construction/erosion and sediment control for typical development projects throughout the town. However as you know, the 2016 permit requires additional items related to erosion and sediment controls, such as site plan review procedures, inspection procedures, and others. In response to these items that must be in place by June 30, 2019 and unrelated to the NOI comment letter, multiple Town departments and two separate engineering consulting firms recently undertook a preliminary review of the Town's existing regulatory mechanisms in part to determine status under the 2003 permit and needs under the 2016 permit. In short, there appear to be a small number of projects that may not be subject to the erosion and sediment controls required under the 2003 permit. The Town is actively working towards updating its regulations to comply not only with 2003 permit requirements, but with 2016 permit requirements as well. Final actions are to be determined, however the Town is working with its consultants to determine next steps and currently anticipates creating a comprehensive Stormwater Control Bylaw or similar regulatory mechanism to jointly meet requirements of Minimum Measure 4 and 5 in the 2016 permit. The Town is currently reviewing a sample bylaw and comparing it to existing regulations to determine recommended ways to update its existing regulations. It is anticipated that a revised regulatory mechanism will be put up for vote at an upcoming town meeting, i.e. November 2019 or May 2020. Westminster will also have other requirements as required by the 2016 permit related to construction site inspections and plan review in place by June 30, 2019 as a components of its written Stormwater Management Program (SWMP) Plan. In summary, there appears to a small number of projects within the Town's urbanized area and that also discharge to the MS4 or a waterbody that do not fully meet 2003 permit requirements. In response, Westminster is actively working towards regulating all development to meet requirements of not only the 2003 permit, but the 2016 permit as well. The Town feels that it has made a good faith effort to meet 2003 permit requirements and is looking ahead to implement 2016 permit requirements.

5. Do current town bylaws/regulations meet the post-construction stormwater management requirements as required by the 2003 permit? As correctly noted in the NOI comment letter, the Town implemented a Low Impact Development bylaw in November 2006 which regulates both new and re-development as small as 10,000 square feet as required by the 2003 permit, however excludes single family houses from regulation. Regarding single family houses, they may be covered by the LID bylaw, subdivision bylaw, wetlands protection bylaw (for those within regulated areas) or other bylaw in the vast majority of cases, generally limited to those disturbing greater than one acre that discharge to the Town's regulated MS4 system or other waterbody. Although it's possible that construction of a single family house would disturb greater than one acre in an area subject to the MS4 permit requirements and not be reviewed by the LID bylaw, subdivision bylaw, or any other regulatory requirements within the various town departments, it's felt that the vast majority of single-family housing projects disturb less than this amount in order to retain the wooded characteristics popular throughout Westminster. Thus, the Town of Westminster feels that it has met the requirements of the 2003 permit, however as you know, this requirement is substantially changed under the 2016 permit. As noted in the response to Item #4 above, multiple Town departments and two consultants recently conducted a preliminary review of the Town's regulatory mechanisms and will be making changes to applicable bylaws to fully meet 2016 permit requirements as well as developing new LID regulations, that as correctly noted in the NOI comment letter,

have not yet been enacted. It is anticipated that the new LID regulations will encompass at least the 2016 permit requirements, as well as incorporate additional best management practices for environmental protection as recommended by the town and its consultants. Although timetables are tentative, the Town envisions reviewing the final regulations during late spring 2019 and adopting regulations sometime during the summer of 2019. As part of this exercise, the Town also plans to assess its existing regulations as pertains to green infrastructure, street design and parking lot guidelines, and implement requirements for nutrients treatment as required under the 2016 permit a full 3 years ahead of schedule. In summary, there appears to a small number of projects generally limited to single family houses located within the Town's urbanized area and that also discharge to the MS4 or a waterbody that do not fully meet 2003 permit requirements, however the majority of development is covered under the Town's existing bylaws and regulations. Additionally, Westminster is actively working towards regulating all development to meet requirements of not only the 2003 permit, but the 2016 permit as well with many of the required items being implemented years ahead of schedule. The Town feels that it has made a good faith effort to meet 2003 permit requirements and is already looking ahead to implementing 2016 permit requirements on or ahead of schedule.

Please let me know if you have any further questions or require additional information.

Thanks,
Josh

Joshua W. Hall, P.E.
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From: Vuto, Michelle [mailto:Vuto.Michelle@epa.gov]
Sent: Tuesday, March 5, 2019 1:54 PM
To: Joshua Hall
Cc: Nick Cristofori
Subject: Comments to Westminster's MS4 NOI

Hello Joshua,

EPA received comments on the Town of Westminster's Small MS4 NOI. The comments are attached for your reference. In order to address the comments, please provide answers to the following questions:

1. Please attach the outfall map required under the 2003 permit.
2. Are all waterbodies/outfalls accounted for in the receiving waters list (e.g. Burntmill Brook/swamp surrounding the brook)? If not, please list any missing waterbodies.
3. Please attach the IPaC results along with USFWS correspondence if applicable. Is the ESA designation criterion B?
4. Do current town bylaws/regulations meet the construction/erosion and sediment control practice requirements as required by the 2003 permit?
5. Do current town bylaws/regulations meet the post-construction stormwater management requirements as required by the 2003 permit?

EPA cannot authorize the Town of Westminster to discharge under the 2016 Small MS4 Permit until these answers have been received. You do not need to resubmit your entire NOI form. Please respond to this email no later than 30 days from the date of this email, unless additional time is granted by EPA for such submission.

Please let me know if you have any questions.

Best,
Michelle

Michelle Vuto
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